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ABSTRACT

The findings and recommendations of a 21-month study of the culture, needs, and concerns of native Hawaiians are presented in this final report, the first volume of a report commissioned by the United States Congress. Following a brief description of the approach and methodology used and the executive summary, part I deals with socioeconomic and cultural factors affecting the past and present lives of native Hawaiians. The following topics are covered: (1) demography; (2) the historical and cultural background of native Hawaiian health and government health programs, both those covering all residents and those specifically for natives; (3) the education system; (4) housing costs and characteristics for native Hawaiians and other ethnic groups; (5) the history of Hawaii from ancient times through the adoption of the Reciprocity Treaty of 1875; (6) an explanation and description of the Hawaiian language and a discussion of historic preservation in Hawaii; and (7) an analysis of the native Hawaiian religion. Part II covers the following aspects of land-related claims and interests: (1) land laws and relationships; (2) diplomatic and congressional history, from monarchy to statehood; (3) existing law, native Hawaiians, and compensation; (4) the Hawaii Home Lands program; (5) Federal responses to the unique needs of native Hawaiians; (6) State responses to native Hawaiians' unique needs; and (7) private and local responses to the special needs of native Hawaiians. An appendix contains: Title III of Public Law 96-565, the Act that created the Native Hawaiians Study Commission; the substitute "Summary of Findings, Conclusions, and Recommendations" prepared by three dissenting Commissioners; a summary of the written comments received by the Commission during the public comment on the Draft Report of Findings; and the written comments themselves. (KH)

ED254608

Volume I

NATIVE HAWAIIANS STUDY COMMISSION

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Report on the culture, needs and concerns of Native Hawaiians

UD024135

June 23, 1983

Cover photos:

UPPER LEFT: The statue of King Kamehameha the Great; photo by Robert Goodman.
UPPER RIGHT: A Hawaiian elder or kupuna; photo by Robert Goodman.
LOWER RIGHT: Iolani Palace; photo by Robert Goodman.
LOWER LEFT: A Hawaiian girl; photo by Robert Goodman.

The Commission is grateful to Tom Auld Yardley for supplying the cover photos and the photos that appear in Volume I of this Report.

Volume I

NATIVE HAWAIIANS STUDY COMMISSION

Report on the culture, needs and concerns of Native Hawaiians

Pursuant to Public Law 96-565, Title III

June 23, 1983

Photo by Robert Goodman.

A Hawaiian girl.

NATIVE HAWAIIANS STUDY COMMISSION
U.S. DEPARTMENT OF THE INTERIOR
18TH & C STS., N.W. - ROOM 5156
WASHINGTON, D.C. 20240

June 23, 1983

Honorable James A. McClure, Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20515

Honorable Morris K. Udall, Chairman
Committee on Interior and Insular Affairs
United States House of Representatives
Washington, D.C. 20510

Dear Sirs:

It is my privilege respectfully to submit the Final Report of the Native Hawaiians Study Commission to the Committees on Energy and Natural Resources and Interior and Insular Affairs.

This Final Report is presented in two volumes and, as mandated by Public Law 96-565, Title III (adopted December 22, 1980), reflects the findings, conclusions, and recommendations of a 21-month study of the culture, needs, and concerns of native Hawaiians by the Native Hawaiians Study Commission.

The Commission's Final Report, including conclusions and recommendations, is contained in Volume I. Three Commissioners dissented from portions of the Report and their conclusions and recommendations are contained in Volume II.

It is our sincere hope that these volumes will provide a well-considered and detailed basis for further review and consideration by your Committees.

A unanimous final report was desired and sought by all. While this did not prove possible, we believe the Native Hawaiians Study Commission has attempted to satisfy the requirements of Public Law 96-565 to "conduct a study of the culture, needs and concerns of Native Hawaiians," and to "make recommendations to the Congress based on its findings and conclusions." This final report offers a comprehensive and thoughtful range of possible responses by the Congress to issues and concerns that are complex and difficult.

On behalf of the entire Native Hawaiians Study Commission, I would like to express our appreciation for this opportunity to serve the United States Congress and the nation.

Sincerely,

Kinau Boyd Kamalii

Kina'u Boyd Kamali'i
Chairperson

Commissioners And Staff

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Preface

The Native Hawaiians Study Commission was created by the Congress of the United States on December 22, 1980 (Title III of Public Law 96-565; see Appendix). The purpose of the Commission is to "conduct a study of the culture, needs and concerns of the Native Hawaiians."

The Commission published and released to the public a Draft Report of Findings on September 23, 1982. An initial comment period of 60 days was set and the Commission solicited written comments on the Draft Report from native Hawaiian organizations, government agencies, and the general public. The comment period was extended an additional 60 days after native Hawaiian groups requested more time to prepare their comments. The comment period ended on January 24, 1983.

According to the law establishing the Commission:

> Sec. 303(d). After taking into consideration any comments submitted to the Commission, the Commission shall issue a final report of the results of its study within nine months after the publication of its draft report. The Commission shall submit copies of the final report and copies of all written comments on the draft submitted to the Commission...to the President and the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.
>
> Sec. 303(e). The Commission shall make recommendations to the Congress based on its findings and conclusions...

This volume comprises the Commission's Final Report. It was completed after review and consideration of all written comments received by the Commission, and includes findings, conclusions, and recommendations. The written comments received by the Commission appear in the Final Report in three different ways. First, as required by statute, all written comments received by the Commission are reproduced in full in the Appendix of this report. Second, some of the comments were used to revise the text of the main report and these comments are referenced in the text where they were used. Finally, there is a summary in the Appendix of all written comments that are not specifically referenced in the text of the report.

Table Of Contents

VOLUME I

Page

LETTER OF TRANSMITTAL........... iii
LIST OF COMMISSIONERS AND STAFF.......................... iv
PREFACE v
LIST OF TABLES.................. xiii
LIST OF CHARTS.................. xvi

APPROACH AND METHODOLOGY 1
EXECUTIVE SUMMARY............... 9
CONCLUSIONS AND RECOMMENDATIONS. 21

PART I. SOCIOECONOMIC AND CULTURAL SECTION.............. 33

DEMOGRAPHICS.................... 35

A. Introduction.............. 35

- Profile of Hawaii......... 35
- Data Sources and Reliability.............. 35
- Definitions............... 36
- Historical Background..... 37

B. Population and Composition of Population............ 38

- Population Trends from 1778 to 1850............. 38
  - Causes of Population Decline................ 38
- Population Trends from 1850 to 1896............. 39
  - Immigration............. 39
- Population Trends from 1900 to 1960............. 40
- Population Trends from 1960 to 1980............. 40
- Summary................... 42

C. Geographic Distribution..... 42

- 1778 to 1850.............. 42
- 1850 to 1900.............. 43
- 1900 to 1960.............. 43
- Geographic Distribution of Native Hawaiians......... 43
- 1960 to 1980.............. 44
- Summary................... 44

Page

D. Education.................. 45

- Missionaries.............. 45
- Kingdom Education System.. 45
- Territory................. 45
- 1970 to 1980.............. 46
- Summary................... 47

E. Employment................. 48

- 1778 to 1850.............. 48
- 1850 to 1900.............. 48
- 1900 to 1960.............. 48
- 1960 to 1980.............. 49
- Summary................... 50

F. Income..................... 51

- Poverty Level and Welfare.................. 51
- Summary................... 52

G. Criminal Justice.......... 52

- Ethnic Stock of Adult Arrestees................ 52
- Race of Juveniles Arrested................. 53
- Summary................... 53

H. Health.................... 53

- Birth and Death Rates..... 53
- Infant Mortality.......... 54
- Life Expectancy........... 54
- Leading Causes of Death... 55
- Incidence of Cancer....... 56
- Acute and Chronic Conditions................ 56
- Substance Abuse........... 57
  - Alcohol Use and Abuse... 57
  - Drug Use and Abuse...... 58
  - Alcohol and Drug Abuse.. 59
- Summary................... 59

I. Socio-Political Profile... 60

- Inter-marriage............ 60
- Political Participation... 62
  - The Monarchy............ 62

Page

The Republic of Hawaii.. 63
Territory and State..... 64
Creation of Office of Hawaiian Affairs....... 66
Summary.................. 66

Tables........................ 68
Charts........................ 87
Notes......................... 91

HEALTH AND SOCIAL SERVICES...... 99

A. Introduction.............. 99

B. Historical and Cultural Background............... 99

Pre-contact (Ancient to 1778).................... 99
Health and Illness...... 99
Medical Beliefs and Practices.............. 101
Contact (1778 to 1893).... 102
Depopulation............ 102
Inadequacy of Traditional Native Medicine for Haole Illnesses........ 104
Ascent of Haole Medicine............... 105
Overthrow of the Monarchy to the Present (1893-1983).................... 106
Population Changes...... 106
Major Illnesses......... 107
Health Measures......... 108

C. Mental Health Programs.... 109

Mental Health Status of Native Hawaiians......... 109
Hawaii State Department of Health Programs....... 110
Federally-Funded Programs................. 111

D. Medical Health Services... 112

E. Family Health Services.... 113

Page

F. Communicable Diseases..... 114

G. Other Programs............ 115

Notes......................... 116

EDUCATION..................... 123

A. Introduction.............. 123

B. Historical Development.... 123

Early Background.......... 123
Territorial Education System.................... 124

C. Criticisms of the System.. 126

D. Programs for Native Hawaiians................. 127

Hawaiian Studies Program.. 127
Other Programs............ 128

E. Native Hawaiian Participation in the Educational Community................. 129

Educational Officers...... 129
Instructional Personnel... 130
University of Hawaii...... 130

Tables........................ 131
Notes......................... 132

HOUSING....................... 135

A. Introduction.............. 135

B. Housing Characteristics... 135

Availability.............. 135
Cost...................... 135
Ownership................. 136
Other Housing Characteristics.......... 136

Page

- C. Homestead Housing......... 137
  - Background................ 137
  - Present Demand............ 137
  - DHHL Residential Program.. 137
    - Service Area............ 137
    - Homes Constructed....... 137
    - Cost and Program Financing.............. 138
    - Loans................... 138
  - Federal Housing Programs.. 139
- Tables........................ 141
- Notes......................... 145

ANCIENT HISTORY TO THE RECIPROCITY TREATY....................... 147

- A. Ancient Hawaii............ 147
- B. Isolation Is Shattered.... 150
- C. Transformation and Change (1796 to 1825)........... 152
  - Political Unification--Kamehameha I............ 152
  - Economic Changes.......... 152
  - The *Kapu* System Falls..... 153
  - Arrival of Missionaries... 154
  - Foreign Policy............ 156
- D. The Reign of Kamehameha II (1825 to 1854)........... 156
  - Creation of a System of Laws..................... 156
  - Relationships with Foreign Governments.............. 159
  - Trade and Annexation...... 160
- E. The Reigns of Kamehameha IV and V (1854 to 1872)..... 162
  - Politics and Sugar........ 162
  - Plight of the People...... 164
  - Constitutional Change..... 164

Page

- F. Lunalilo (1873 to 1874)... 165
- G. The Reciprocity Treaty (1875).................... 166
- Notes......................... 168

NATIVE HAWAIIAN CULTURE......... 173

- A. Introduction.............. 173
- B. The Hawaiian Language..... 173
  - Introduction.............. 173
  - The Cultural Importance of Hawaiian.............. 175
    - Human Activity.......... 175
    - Subtlety, Personality and Detail................. 175
    - The Power of Words...... 176
  - History of the Hawaiian Language................. 185
    - Origin of the Language.. 185
    - Phonology, Grammar, and Syntax................. 185
    - Vocabulary and Written Form................... 186
  - The Rise of English....... 191
  - The Role of Pidgin........ 198
- C. Historic Preservation..... 203
  - Introduction.............. 203
  - Federal Government Involvement.............. 204
  - State Historic Preservation Plan..................... 205
  - Federal and State Registers................. 205
    - Criteria for Evaluation. 206
    - Processes for Nomination................... 207
  - Acceptance on the National Register................. 211
  - Appeals for Nomination.... 211
  - Current Historic Preservation Issues.................. 212
- Tables........................ 214
- Notes......................... 216

Page

NATIVE HAWAIIAN RELIGION....... 225

A. Approach................. 225

B. Basic Religious Concepts of Human Existence in Life and After Death.... 226

Animism and Animatism as Primary Facets of Hawaiian Religious Belief........ 228

C. Relationship Between Community Worship of the Ruling Class and the Practice of Family Worship................. 230

Variability of Worship Patterns.............. 230
Overthrow of the Kapu System in 1819........ 232
Unifying Effect of the Kinolau Concept...... 234

D. Post-Conversion Hawaiian Conflict in Native Identity................ 242

E. Present-Day Search for Traditional Values...... 245

F. Recommendations.......... 246

Notes........................ 247

PART II. FEDERAL, STATE AND LOCAL RELATIONSHIPS................ 251

LAND LAWS AND LAND RELATIONSHIPS................. 251

A. History of Land Ownership Laws.................... 253

Traditional Land Tenure.. 253
Transition Period: 1778 to 1846................ 254
The Great Mahele......... 255

B. Specific Property Ownership Questions.............. 257

Page

Status of Water and Fishpond Rights Under Hawaiian Law...................... 257
Geothermal and Mineral Rights.................. 259
Kuleana Land Rights...... 260
Adverse Possession....... 261
Genealogical Searches.... 261

Notes........................ 262

DIPLOMATIC AND CONGRESSIONAL HISTORY: FROM MONARCHY TO STATEHOOD..................... 265

A. United States-Hawaii Relationships and Treaties, 1875 to 1893........... 265

1875 Reciprocity Treaty.. 265
American Advisors' Influence............... 267
Events Leading to Cabinet Government, 1881 to 1887.................... 269
Cabinet Government Formed.................. 271
Events Leading to the 1887 Constitution............ 272
Reciprocity Treaty Renewal................. 278
Cabinet Government and Attempts to Regain Powers of the Monarchy, 1887 to 1891.................... 279
Annexation Movements, 1891 and 1892................ 285

B. The Fall of the Monarchy and Annexation of Hawaii.... 289

Memorandum from William Dudley, Research Branch, Naval Historical Center, to Carol E. Dinkins, Chair, Native Hawaiians Study Commission Committee on Federal, State, and Local Relationships (Dated March 2, 1983)... 289
Setting the Stage........ 291

Page

Liliuokalani Ascends the Throne.................... 292
Events of January, 1893... 293
The Blount and Morgan Reports.................. 298
The Republic and Annexation Attempts................. 300

C. Further Analysis of Annexation............... 301

Why a Joint Resolution, Not a Treaty?................ 301
A Comparison to Annexation of Other Territories..... 304
Did Any Native Hawaiians Sign Annexation Documents?.................... 306

D. Hawaiian Admission to Statehood Compared to That of Other States............. 308

History of Hawaiian Statehood................ 308
Hawaiian Boundaries....... 310
Comparison to Admission of Other States............. 311
Louisiana............... 311
Florida................. 311
Texas................... 312
Oregon.................. 312
Alaska.................. 313

Notes........................ 315

EXISTING LAW, NATIVE HAWAIIANS, AND COMPENSATION.............. 333

A. Background............... 333

B. Aboriginal Title and Compensation............ 334

Page

Did the Native Hawaiians Have Aboriginal Title to the Crown and Government Lands?.................... 334
Did the United States Extinguish Whatever Aboriginal Title Existed?................. 338
Right of Compensation for Loss of Aboriginal Title..................... 339

C. Recognized Title and Compensation............. 340

D. Loss of Sovereignty and Compensation............ 346

E. Trust Relationship Between the Natives of Hawaii and the United States....... 347

F. Comparison with Alaska Native Claims 349

Notes........................ 352

REVIEW OF HAWAIIAN HOMES COMMISSION PROGRAMS........... 371

Federal/State Task Force Comment..................... 371
Transmittal Memorandum, Dated September 8, 1982........... 372
Abbreviations and Acronyms 373

A. Introduction............. 374

B. Background............... 375

C. Highlights............... 376

Page

D. Findings and Recommendations......... 380

1. Land Status.......... 380
   Land Inventory...... 380
   Land Withdrawals.... 384
   Land Exchanges...... 386
   Recommendation...... 387

2. Program Accomplishment................ 387
   Housing Program.... 389
   Farm and Ranch Homesteading Program.. 389
   Conclusion......... 392
   Recommendation..... 392

3. Financial Management and Reporting...... 393
   Cash Management..... 393
   Financial Statements.............. 394
   Accounting System is Not Auditable...... 394
   Accuracy of Annual Report Data........ 395
   Recommendations..... 395

4. Eligibility Lists.... 396
   Recommendation...... 398

5. Leasing Activities... 398
   Recommendation...... 400

Appendix to "Review of Hawaiian Homes Commission Programs".... 401

Tables...................... 415

FEDERAL RESPONSES TO THE UNIQUE NEEDS OF NATIVE HAWAIIANS..... 419

A. Identification of Federal Programs for Which Native Hawaiians May Be Eligible................ 419

Page

B. Study of Military Property Requirements in Hawaii... 432

C. President's Federal Property Review Board............ 433

D. Establishment of Kaloko/Honokohau National Historic Park........... 433

Notes........................ 434

STATE OF HAWAII'S RESPONSES TO NATIVE HAWAIIANS' UNIQUE NEEDS......................... 435

A. Acquisition and Disposition of Revenue Pursuant to Section 5(f) of Admission Act..................... 435

   Return of Federally Controlled Lands 436
   State Responsibilities in Relation to Ceded Lands.. 437

B. The Office of Hawaiian Affairs.................. 439

C. Other State Government Programs................. 440

Notes........................ 441

PRIVATE AND LOCAL RESPONSES TO SPECIAL NEEDS OF NATIVE HAWAIIANS..................... 445

A. Kamehameha Schools/Bernice Pauahi Bishop Estate..... 445

B. Queen Liliuokalani Children's Center........ 445

C. Lunalilo Home............. 446

D. Alu Like, Incorporated.... 446

Notes........................ 447

Page

GLOSSARIES.................... 449

- Selected Glossary of Hawaiian Words.................... 450
- Glossary of Legal Terms...... 456

LIST OF REFERENCES............ 457

APPENDIX.................... 479

- Public Law 96-565, Title III.................... 480
- Substitute Findings/Conclusions/Recommendations............ 483
- Summary of Written Comments Received by the Commission.. 490
- Written Comments Received by the Commission............. 496

VOLUME II

TABLE OF CONTENTS.............. iii
FOREWORD...................... iv
INTRODUCTION..................viii
EXECUTIVE SUMMARY............. 1
CRITICAL ANALYSIS OF VOLUME I.. 19

PART I. THE OVERTHROW OF THE KINGDOM OF HAWAI'I

Chapter 1: A Changing World.................... 34

Chapter 2: Three Days in January, 1893............... 54

Chapter 3: The Blount and Morgan Reports Re-examined.. 70

Chapter 4: Claims of Conscience.................. 80

Page

PART II: THE PUBLIC LANDS TRUST

Chapter 5: The Ceded Lands Trust..................... 102

Chapter 6: The Hawaiian Homes Act..................... 124

Chapter 7: Conflicts of Purpose.................... 133

PART III: THE NATIVE HAWAIIAN PEOPLE

Chapter 8: The Native Hawaiian People.................... 148

PART IV: REFERENCES

Footnotes.................... 156
Bibliography................. 180

List Of Tables

Table — Page

1 Total Populaton: 1778 to 1850.................. 68

2 Population of Hawaii: 1850 to 1896............. 68

3 Hawaiian Population by Race: 1853 to 1896...... 68

4 Ethnic Stock: 1900 to 1960..................... 69

5 Hawaii Population by Race: 1970 and 1980..... 69

6 Hawaii Population-1980, by Ethnic Stock.......... 70

7 Median Age by Sex, 1980... 70

8 Population by Island: 1779 to 1850............. 70

9 Population by Geographic Areas: 1850 to 1896..... 71

10 Population by Island: 1900 to 1960............. 71

11 Geographic Distribution... 72

12 Percentage of Population of School Age or Older Who Were Literate, 1890-1930. 72

13 Percentage of 16- and 17-Year Olds Attending School, 1910-1950........ 72

14 School Enrollment - 1970.. 73

15 Occupation: 1866 to 1896...................... 74

16 Gainfully Employed Males Classified as Professional, 1896-1960................. 74

17 Employed Male Civilians by Large Ethnic Groups and Major Occupations, 1940, 1950, 1960........... 75

18 Employment Status - Hawaii, 1970..................... 76

19 Number of Hawaiians and Part-Hawaiians Unemployed in State - 1975........... 77

20 Percentage of Males Receiving Incomes in 1949, 1959, 1969 by Income Classes.... 78

21 Number of Hawaiians and Part-Hawaiians Below Poverty Level in the State........ 79

22 Percent of Native Hawaiians in Each Welfare Category Compared to Percent of Native Hawaiians in Total Population................ 79

23 Population and Arrests as a Percentage of Ethnic Stock, State of Hawaii, 1981..... 79

24 Population and Arrests as a Percentage of Ethnic Stock, State of Hawaii, 1981 (Using State of Hawaii Population Figures)....... 79

25 Offense by Race of Adults Arrested, State of Hawaii, 1981...................... 80

Table Page

26 Offense by Race of Juveniles Arrested, State of Hawaii, 1981............ 80

27 Crude Birth and Death Rates, 1848 to 1965............ 81

28 Deaths Under One Year of Age per Thousand Births, 1924-1980.................... 81

29 Resident Infant Deaths by Race of Mother, 1977-1981.................... 81

30 Characteristics of Births by Race of Mother, Hawaii Residents, 1980.......... 81

31 Estimated Life Expectancy at Birth by Ethnic Group, 1910-1970................ 82

32 Leading Causes of Death: 1920 to 1980............ 82

33 Leading Causes of Death in Hawaii, Residents by Race, 1980.............. 83

34 Age Standardized Incidence of Cancer by Race, Hawaii 1973 to 1980 83

35 Number of Acute Conditions per 100 Persons per Year by Ethnicity, 1980...... 84

36 Number of Chronic Conditions per 1,000 Persons per Year by Ethnicity, 1980...... 84

37 Lifetime Prevalence and Current Use of Alcohol by Ethnicity............ 84

Table Page

38 Alcohol Abusers and Alcohol Treatment Population by Ethnicity.. 84

39 Drug Abusers and Drug Treatment Population by Ethnicity............. 85

40 Ethnicity of Persons Abusing Both Alcohol and Drugs........ 85

41 Interracial Marriages as Percentage of All Marriages, 1912 to 1981..................... 85

42 Registered Voters, 1902 to 1940.................. 86

43 Registered Voters and Votes Cast for the Board of Trustees of the Office of Hawaiian Affairs, by Counties: November 4, 1980..................... 86

44 Composition of the 1981 Hawaii State Legislature.............. 86

45 Proportional Applicant Pool and Appointments to Educational Officer...... 131

46 Ethnic Composition of Educational Officer Workforce................ 131

47 Ethnic Composition of Teacher Workforce 1977 to 1980.................. 131

48 Vacancy Rates: 1980...... 141

49 Median Value/Non-Condominium (Specified Owner, Dollars)................ 141

Table Page

50 Median Value: Owner-Occupied Housing units (Non-Condominium), 1980.................. 141

51 Median Contract Rent (Specified Renter, Dollars).............. 141

52 Median Contract Rent, 1980.................. 141

53 Occupied Housing Units, 1980.................. 141

54 Housing Characteristics, 1980.................. 142

55 Plumbing Facilities by Household, 1980....... 142

56 Summary of Homestead Leases As of June 30, 1981... 143

57 Housing Program: 1980-1981.................. 144

58 Repairs and Improvements/ Existing Residential Single Family Homes, 1980-1981............. 144

59 A Comparison of Some Words in Hawaiian and Other Eastern Polynesian Languages............. 214

60 A Comparison Of Terms Used in Different Parts of Hawai'i................ 214

61 A Sampling of Some Terms for Rain in Hawaiian.. 214

62 A Comparison of the Native Phonemes of Hawaiian and Some Other Eastern Polynesian Languages.... 214

Table Page

63 Some English Ambiguities Not Existent in Hawaiian................. 215

64 Some Words Distinguished by Vowel Length and/or Presence of the 'Okina.. 215

65 Acreage and Type Managed by DHHL, as of June 30, 1981.................. 415

66 Funds and Sources of Revenues--DHHL.......... 415

67 Changes in Land Inventory--Hawaiian Home Lands..... 415

68 Comparison of Land Inventory Figures................. 416

69 Comparison of Acreage Descriptions............ 416

70 Comparison of DHHL Objectives and Results....... 416

71 Summary of Eligible Homestead Applicants........ 416

72 Homestead Applicants by Years on Eligibility Lists.................. 417

73 Comparison of DHHL Annual Report and Listing of Homesteaders, by Islands.................. 417

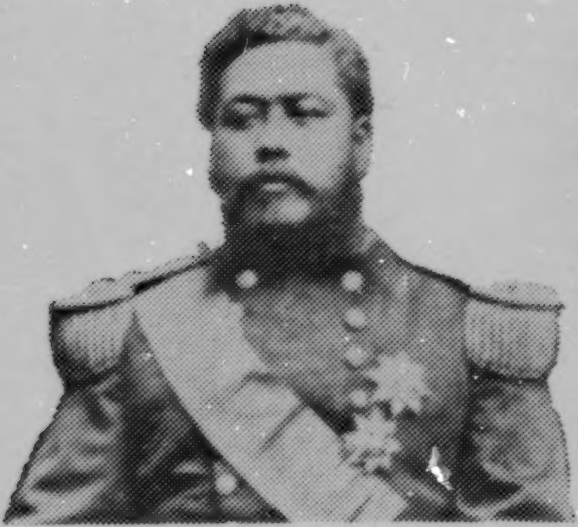
74 Comparison of DHHL Annual Report and Listing of Homesteaders, by Type... 417

75 DHHL Farmlands Cultivated/ Cleared................. 417

List Of Charts

Chart		Page
1	Total Native Hawaiian Population (1778-1850)...	87
2	Total Population by Race (1853-1900)...............	88
3	Non-Hawaiian Population by National Origin (1853-1900).....................	89
4	Age and Sex Pyramids: 1920, 1960......................	90
5	Causes of Death: All Causes by Standardized Rates per 100,000 Population.......	90
6	Native Hawaiian Population: 1900-1960.................	90

Approach And Methodology



R. J. Baker Collection.

King David Kalakaua

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Approach And Methodology

A. APPROACH

The Native Hawaiians Study Commission was established by an Act signed into law on December 22, 1980 (Public Law 96-565, Title III). This Act defined the duties of the Commission as follows:

> Sec. 303(a) The Commission shall conduct a study of the culture, needs and concerns of the Native Hawaiians.
>
> (b) The Commission shall conduct such hearings as it considers appropriate and shall provide notice of such hearings to the public, including information concerning the date, location and topic of each hearing. The Commission shall take such other actions as it considers necessary to obtain full public participation in the study undertaken by the Commission.

The Congress provided in the Act that a Commission of nine members be appointed by the President. Further, it provided that "not more than three of such members shall be residents of the State of Hawaii." President Reagan appointed to the Commission three persons from Hawaii and six government officials. */

Since the Congress had not appropriated funds for the Commission, it was immediately faced with a decision as to whether to (1) delay all work until a supplemental appropriation could be obtained (possibly not until late Spring of 1982), or (2) seek funds from the President's unanticipated needs appropriation. (Other funding options were blocked by the Anti-Deficiency Act.) To avoid delay, the Commission chose to seek funds from the unanticipated needs appropriation. Since funds in that account are limited, the Commission developed a work plan that would permit holding Commission funding to a minimum and permit heavy reliance on assistance from other agencies, pursuant to the authority of Section 303(j) of P.L. 96-565.

Upon approval of funds by the President, the Commission established a staff, with two persons in Washington and two in Honolulu. As part of the Commission's budget submission to Congress in March, 1982, it stated that its resource requirements had been reduced to a minimum and that "to the greatest extent possible, the Commission will rely on other agencies for the support needed in its information-gathering activities." (Request for Supplemental Appropriation, March, 1982.) Thus, the full Commission had decided, and the Congress was fully informed, that material for the Report would be developed, researched, and prepared by government officials. In fact, the Commission has relied extensively on the substantial expertise of employees of appropriate agencies. At every stage the full Commission was aware of the scope of the project and who would develop information for and write particular portions of the Report.

Also, as provided for in the Act establishing it, the Commission has

---

*/ Appointment of government officials to the Commission was specifically contemplated by Congress, since the enabling Act provided that "members of the Commission who are fulltime officers or employees of the United States shall receive no additional pay on account of their services on the Commission" (Section 302(g)).

developed materials and written its Report with extensive public participation. It conducted hearings throughout Hawaii in January 1982. It has held a number of meetings open to the public. Its Draft Report has been circulated for public comment, and the comments received from a spectrum of the public have been analyzed and reflected in the Report. Thus, a large number of people of diverse background, experience, and race have contributed to and commented on this Report, as envisioned in the Act that established the Commission.

The findings of the Draft Report and a major part of the Final Report have been reviewed and adopted by the nine Commission members. The goal of the Act, to assure a fair Report through diverse representation and contribution, has been realized.

B. METHODOLOGY

President Reagan appointed the nine Native Hawaiians Study Commissioners in September, 1981, and the Commission's first meeting was held on September 23, 1981. During the remainder of 1981, the Commission developed and adopted a study plan and a budget. The Commission's study plan outlined the substantive areas of study as well as the timing of the various phases of the study. Substantively, the study plan proposed the gathering of information in two basic areas:

- Socioeconomic and cultural, including education, health, employment, housing, history, language, and religion; and

- Federal, State, and local relationships, including diplomatic history, history of land ownership, assessment of the State, private and local programs, review of the overthrow of the Hawaiian monarchy and the subsequent annexation of Hawaii to the United States, and identification of Federal programs for which native Hawaiians might be eligible.

The study plan also defined the schedule for the Commission's work:

I. Organize Commission and staff, November-December, 1981;

II. Collect facts and information, January-June, 1982;

III. Assimilate and analyze facts and information, draft findings, June-August, 1982;

IV. Commissioners review, discuss, and revise first draft of findings, August, 1982;

V. Publication of Draft Report of Findings, circulated for 60 days for public comment, September 23, 1982 (publication date required by Sec. 303(c) of P.L. 96-565);

VI. Further study and development of proposals for the Final Report, November, 1982-June, 1983;

VII. Submission of Final Report to Congress, June 23, 1983 (submission date required by Sec. 303(d) of P.L. 96-565).

As indicated above, Commission funding for fiscal year 1982 was received from the President's Unanticipated Needs Fund in December 1981. (In October 1982, the Commission received an appropriation for the fiscal year 1983 funding necessary to complete its work.) In January 1982, the Commission hired its staff--an Executive Director and a secretary for the Washington office, and a Hawaii Coordinator and a secretary for the Hawaii office.

The Commission's series of public hearings in Hawaii to begin the data collection phase of the study plan was held in January 1982. Eight public hearings were held on the islands of Oahu, Molokai, Maui, Hawaii, and Kauai. The Commission heard testimony and received written statements from hundreds of individuals during the dozens of hours of hearings. Everyone who wanted to testify was given the opportunity. Those testifying included native and non-native Hawaiians of all age levels and from all walks of life. In addition, an informational meeting was held to acquaint Commissioners with the key issues relating to native Hawaiians. At this meeting, Commissioners heard expert testimony from representatives of several organizations that are intimately involved in native Hawaiian programs and problems, including: Alu Like, Inc., the Hawaiian Homes Commission, the Office of Hawaiian Affairs, and the Bishop Estate. Throughout its stay in Hawaii, the Commission heard and experienced, first-hand, numerous statements on the entire spectrum of issues regarding the culture, needs, and concerns of native Hawaiians: the homesteading program, preservation of religious sites, educational problems, health, land issues, legal rights, preservation of the Hawaiian language and culture, and many more.

The Commission then divided its members into two committees to organize, research, and draft the two primary sections of its study plan. As a result of the wealth of information received at the hearings in Hawaii, the two committees of the Commission were able to refine and elaborate on the Commission's original study plan. As contemplated by the Commission's approved study plan, data collection and drafting of particular sections of the study were assigned to various Commissioners and to the staff. As indicated earlier, the Commission relied on the resources of other agencies for assistance in information-gathering activities, including the U.S. Census Bureau, the U.S. Department of Health and Human Services, the U.S. Department of Housing and Urban Development, the U.S. Department of Agriculture, the U.S. Department of the Interior, the U.S. Department of Justice, and the Naval Historical Research Center.

As the data collection effort continued, the third phase of the study plan (assimilation and analysis of facts and information) was begun by the two committees and the staff, based on the information already collected from the public hearings, from State and Federal agencies, and from other organizations. Preliminary drafts of the Draft Report of Findings were reviewed by the Commission in June and August. The culmination of this process was the publication of the Commission's Draft Report of Findings on September 23, 1982, as required by law.

After publication of the Draft Report, the Commission announced in the Federal Register, and through its office in Hawaii, that there would be a public comment period on the Draft Report of sixty days--from September 23 to November 23, 1982 (as set forth in the Commission's study plan). To encourage the submission of written comments, copies of the Report were circulated in Hawaii to individuals, native Hawaiian organizations, and State government agencies. Copies of the Draft Report were also placed in public libraries throughout the State to ensure increased access to the Report by the public at large. On the mainland, copies of the Report were circulated to members of Congress, to Federal Government agencies, and to other interested organizations and individuals.

Interest in the Draft Report was great, and the Commission received numerous requests for an extension of the deadline for public comments. To accommodate all of those who wished to comment, the Commission announced in the Federal Register and through its office in Hawaii that it would extend the comment period for an additional sixty days--to January 23, 1983.

By the end of January, the Commission had received almost one hundred written comments on the Draft Report from individuals, native Hawaiian organizations, State government agencies, Congressmen, and Federal agencies. The Commission's Draft Report was revised based on all these comments, as well as on the new information that had been collected by the Commission since the publication of the Draft Report. Because of their importance, the written comments received considerable attention as the Final Report was drafted. As a result, the written comments received by the Commission on its Draft Report appear in the Final Report in three different ways. First, as required by statute, all written comments received by the Commission are reproduced in full in the Appendix of the Final Report. Second, some of the comments were used to revise the text of the main Report and these comments are referenced in the text where they are used. Finally, there is a summary in the Appendix of all written comments that are not specifically referenced in the text of the Report.

The revised Draft Report, including draft conclusions and recommendations based on the Report and the information gathered by the Commission, was sent by the chairmen of the two committees for review, prior to the Commission's meeting in March 1983. At this meeting, the Commission reviewed each section of the Report and voted on whether to approve and accept each chapter. The results of these votes are as follows:

- Preface: unanimously approved
- Approach and Methodology:
  -approve (Shipley, Anderson, Dinkins, Handley, Morales, Schleede)
  -disapprove (Kamali'i, Beamer, Betts)
- Executive Summary:
  -approve (Shipley, Anderson, Dinkins, Handley, Morales, Schleede)
  -disapprove (Kamali'i, Beamer, Betts)
- Conclusions and Recommendations:
  -approve (Shipley, Anderson, Dinkins, Handley, Morales, Schleede)
  -disapprove (Kamali'i, Beamer, Betts)
- Part I
  --"Demographics": unanimously approved

  --"Health and Social Services": unanimously approved

  --"Education": unanimously approved

  --"Housing": unanimously approved

  --"Ancient History to the Reciprocity Treaty":
    -approve (Shipley, Anderson, Dinkins, Handley, Morales, Schleede);
    -disapprove (Kamali'i, Beamer, Betts)

  --"Native Hawaiian Culture": unanimously approved

  --"Native Hawaiian Religion": unanimously approved

- Part II
  - --"Land Laws and Land Relationships":
    - -approve (Shipley, Anderson, Dinkins, Handley, Morales, Schleede);
    - -disapprove (Kamali'i, Beamer, Betts)
  - --"Diplomatic and Congressional History: From Monarchy to Statehood":
    - -approve (Shipley, Anderson, Dinkins, Handley, Morales, Schleede);
    - -disapprove (Kamali'i, Beamer, Betts)
  - --"Existing Law, Native Hawaiians, and Compensation":
    - -approve (Shipley, Anderson, Dinkins, Handley, Morales, Schleede);
    - -disapprove (Kamali'i, Beamer, Betts)
  - --"Review of Hawaiian Homes Commission Programs":
    - -approve (Shipley, Anderson, Dinkins, Handley, Morales, Schleede);
    - -disapprove (Kamali'i, Beamer, Betts)
  - --"Federal Responses to the Unique Needs of Native Hawaiians": unanimously approved
  - --"State of Hawaii's Responses to Native Hawaiians' Unique Needs": unanimously approved
  - --"Private and Local Responses to Special Needs of Native Hawaiians": unanimously approved
- List of References: unanimously approved
- Appendix: unanimously approved

Three of the Commissioners also presented a substitute */ for the "Conclusions and Recommendations" section. The latter had been previously circulated by the committee chairmen. During the second day of the Commission's March meeting, the three Hawaiian members announced that they would be developing and submitting a minority report.

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*/ This substitute was reviewed by the Commissioners during their March meeting, but had not been circulated previously. The substitute section is reproduced in this Report in the Appendix.

Photo by Robert Goodman.

Hawaii's multi-ethnic society is reflected in the faces of this high school cheering section.

Executive Summary

KAMEHAMEHA

Photo by Robert Goodman.

The statue of King Kamehameha the Great.

Executive Summary

VOLUME I

CONCLUSIONS AND RECOMMENDATIONS

The conclusions and recommendations of the Native Hawaiians Study Commission immediately follow this Executive Summary. They are not summarized here.

PART I. SOCIOECONOMIC AND CULTURAL SECTION

Part I of the Final Report of the Native Hawaiians Study Commission presents information and statistics on various socioeconomic and cultural factors affecting the lives of native Hawaiians. The contents of each chapter are summarized below.

"Demographics"

This chapter presents a demographic profile of native Hawaiians in the following areas.

Characteristics of the Population

After the the arrival of foreigners in Hawaii in 1778, the native population drastically declined. This trend was reversed in the beginning of this century when the part-Hawaiian population began a rapid increase, a trend that continues today.

This section also summarizes the present characteristics of the native Hawaiian population. According to the State of Hawaii, in 1980 there were 9,366 full-Hawaiians and 166,087 part-Hawaiians, comprising about 19 percent of the State's population. Native Hawaiians are a young population--in 1980, the median age for males was 22.0, and the median age for females was 23.2. The male/female ratio for native Hawaiians is fairly equal--in 1980 males accounted for 49.5 percent of the native Hawaiian population, and females accounted for 50.5 percent.

Geographic Distribution

The majority of the native Hawaiian population (as well as the majority of the State's population) lives on Oahu. There still exist pockets of native Hawaiians located in economically-deprived, rural areas on many islands.

Education

The percentage of native Hawaiian children between the ages of 14 and 17 who were enrolled in school in 1970 was lower than that for any other group in Hawaii (91.6 percent for females and 90.7 percent for males, compared to an overall State figure of 94.8 percent). The median number of years of school completed by native Hawaiians over 25 years of age in 1970 was 12.0, compared to a State median of 12.3. Only 49.7 percent of native Hawaiians over 25 had graduated from high school in 1970. In 1970, only 4.2 percent of native Hawaiians over 25 had completed four or more years of college, a figure lower than that for any of the other ethnic groups in Hawaii.

State of Hawaii data for 1977 show little improvement: only 46.9 percent of native Hawaiians over 25 had graduated from high school. Figures for that same year also showed that only 4.6 percent of native Hawaiians over 25 had completed four or more years of college, a percentage still lower than that for any other ethnic group. A 1976 Alu Like, Inc., Needs Assessment Survey indicated, however, that education for their children was a top priority for native Hawaiian parents.

Employment

In 1970, 4.3 percent of native Hawaiian men and 5.2 percent of native Hawaiian women were unemployed, compared to State figures of 2.6 percent and 3.7 percent, respectively. Of all native Hawaiian males over the age of 16, 76.4 percent were in the labor force in 1970, compared with the total State figure of 81.5 percent. Also in 1970, 47.9 percent of native Hawaiian women over the age of 16 were in the labor force, compared with 49 percent for the State as a whole.

A 1975 Census Update Survey estimated that the unemployment rate for native Hawaiians was 11.6 percent, compared to 6.5 percent for the State of Hawaii as a whole. The present rate is probably even higher. Other data for 1975 show that only 17.8 percent of native Hawaiian men have professional/managerial positions, while 53.6 percent are classified as blue collar workers.

Income

In 1949, the proportion of native Hawaiian males in the lowest income brackets was above that for all other groups. Their median income for the same year was higher than the "all races" and Filipino groups but below that of the Chinese, Caucasian, and Japanese groups. By 1969, the situation of the native Hawaiians had improved somewhat. According to the U.S. Census, they were no longer over-represented in the lowest income categories.

According to the 1975 Census Update Survey, however, native Hawaiian personal income was still below the Caucasian and State-wide figures. Other data for 1977 show that the (civilian) median family income of pure Hawaiians was lower than the part-Hawaiian, Filipino, Caucasian, Japanese, and Chinese groups. The part-Hawaiian group was third lowest (Filipinos were second).

In 1975, over one-fourth (27 percent) of native Hawaiians were classified as below the poverty level. In 1982, the number of native Hawaiians on welfare (Aid to Families with Dependent Children) and general assistance) was significantly higher than their relative share of the population.

Criminal Justice

The percent of native Hawaiian adults arrested in Hawaii in 1981 was higher than the native Hawaiian percentage share of the population. The percentage of native Hawaiians arrested for specific crimes was also larger for many types of crime than their share of the population.

The picture for native Hawaiian juveniles arrested is even more striking. Native Hawaiian juveniles comprised the largest percent of those arrested for each crime examined.

Health

Infant mortality remains significantly higher for native Hawaiians compared to the other groups in Hawaii. Part-Hawaiians have a birth rate of 23.1, compared to 17.5 for full-Hawaiians and 19.5 for the State. Part-Hawaiians and full-Hawaiians also have a significantly higher rate of illegitimate births than the other ethnic groups.

Native Hawaiians have historically had a lower life expectancy than other groups in Hawaii. This trend continues--in 1970, the native Hawaiian life expectancy was 67.62 years, compared with an average for the State of 74.20 years.

A study published by the State of Hawaii Department of Health examined mortality rates among full-Hawaiians, part-Hawaiians, and all other races in Hawaii from 1910 to 1980. The study concluded that:

- Part-Hawaiians' mortality rates for heart disease were generally higher than the "all races" group except for some years, while the rate for full-Hawaiians was consistently higher than that for the other groups;
- Part-Hawaiians and the "all races" group had similar mortality rates for cancer, while the rate for full-Hawaiians was much higher than both of the other groups; and
- The mortality rate for accidents did not differ for part-Hawaiians and the "all races" group but was two times higher for the full-Hawaiian group.

Statistics from the Hawaii Tumor Registry show that native Hawaiian men had the highest incidence of stomach and lung cancer for the period from 1973 through 1980, compared to Caucasian, Chinese, Filipino, and Japanese. Native Hawaiian women, compared to these same groups, had the highest incidence of lung and breast cancer.

The Hawaiian and part-Hawaiian group reports the highest prevalence among ethnic groups in Hawaii of "acute conditions," especially respiratory conditions. For chronic conditions, the prevalence for the native Hawaiians is high, relative to the other groups, only for asthma, mental and nervous conditions, and bronchitis/emphysema. Native Hawaiians, according to this data, report the lowest prevalence of cancer, compared to the other groups.

According to the Hawaii substance abuse needs survey:

- Of the total number of estimated substance abusers in Hawaii (103,748, or 14.7 percent of Hawaii's general population), 20.9 percent were Hawaiian or part-Hawaiian.
- Hawaiians and part-Hawaiians account for 19.4 percent of alcohol abusers, 22.3 percent of drug abusers, and 22.8 percent of the population abusing both alcohol and drugs.

Socio-political Profile

The State of Hawaii consists of a population of considerable racial and cultural diversity. From the earliest times, interracial marriage was accepted by the community. Native Hawaiians have among the highest interracial marriage rates. This racial and ethnic mixture has affected the political sphere. Since the 1930's, no one ethnic group has had an electoral majority, although ethnic factors do play a role in politics in Hawaii.

In 1978, the Office of Hawaiian Affairs was created, which has a board of trustees that is elected only by native Hawaiians. For the first board election in 1980, 31 percent of the total native Hawaiian population registered to vote, 80 percent of those who registered actually voted, and 100 candidates ran for the nine board positions.

The 1981 Hawaii State Legislature consisted of seven part-Hawaiians in the House of Representatives (out of a total of 51), and three in the Senate (out of a total of 25).

"Health and Social Services"

Two main topics are included in this chapter. First, the historical and cultural background of native Hawaiian health is discussed. This section (written by Dr. Richard Kekuni Blaisdell) includes information on the health and illnesses of native Hawaiians in three distinct time periods: prior to contact with foreigners (1778 and before), contact with foreigners (1778 to 1893), and from the overthrow of the monarchy to the present (1893 to 1983). The second part of the "Health and Social Services" chapter describes the State and Federal programs available to native Hawaiians. Programs include those in the mental health area, medical and family health, and communicable diseases.

"Education"

The education system in Hawaii is reviewed in this chapter. The historical development of the education system is traced from ancient times through the activities of the missionaries and the education system of the Territory of Hawaii. The chapter also includes a discussion of the present system, reviews programs initiated specifically for native Hawaiians, and discusses native Hawaiian participation in the educational community, including the problem of under-representation of native Hawaiians in higher education and in the teacher workforce.

"Housing"

Housing costs and characteristics for native Hawaiians and other ethnic groups in Hawaii are examined in the chapter entitled "Housing." Among the findings of this section are:

- The median value of a house in Hawaii is two and one-half times greater than the 1980 national median value.
- The native Hawaiian group has the lowest median value of owner-occupied housing units of all ethnic groups in Hawaii.
- In comparing owners versus renters, native Hawaiians and Filipinos are split almost equally between owners and renters (similar to the State average), while over two-thirds of Chinese and Japanese households are owner-occupied. For the White group, only 43 percent of households are owner-occupied.

The "Housing" chapter also discusses some unique features in the housing situation of native Hawaiians that result from the Hawaiian Home Lands program. It reviews the programs of the Hawaii State Department of Hawaiian Home Lands for homestead homes construction and repair, cost and financing, and loans. Impediments to the use of programs of the U.S. Department of Housing and Urban Development by native Hawaiian homesteaders are also identified.

"Ancient History to the Reciprocity Treaty"

Knowledge about history of the Hawaiian Islands and their inhabitants is necessary to understand the culture and lifestyle of native Hawaiians. This chapter in Part I traces the history of Hawaii from ancient times through the adoption of the Reciprocity Treaty between Hawaii and the United States in 1875. The chapter includes a discussion of: ancient Hawaii prior to the arrival of western foreigners; the arrival of Captain Cook in 1778; the changes wrought by the activities of the missionaries; the transformation of the kingdom's system of government toward an Anglo-American style; the kingdom's relationships with foreign governments and citizens; the agitation for annexation to the United States; and the growth of the sugar industry in Hawaii and its effect on the politics and economy of the kingdom.

"Native Hawaiian Culture"

The Commission was fortunate to have had the assistance of knowledgeable native Hawaiian authors in compiling the information on native Hawaiian culture and religion. The chapter on "Native Hawaiian Culture" contains a detailed explanation and description of the Hawaiian language, including comparison to other Polynesian languages, the cultural importance of the Hawaiian language, the history of the Hawaiian language, the rise of English as the dominant language in Hawaii, and the role of pidgin in Hawaii today. This section on the Hawaiian language was written by Larry L. Kimura, at the direction of and funded by the Office of Hawaiian Affairs, which submitted the paper to the Commission.

This chapter also contains a discussion of historic preservation in Hawaii. It examines the roles of the State and Federal Governments in preserving historic properties, and describes the practical problems in the implementation and enforcement of historic preservation regulations in Hawaii today.

"Native Hawaiian Religion"

The chapter on "Native Hawaiian Religion" was written by Rubellite K. Johnson. Professor Johnson's paper (also written at the direction of and funded by the Office of Hawaiian Affairs) discusses: the ancient Hawaiian concept of the soul of man in relation to ancestral or spiritual beings in nature, or beyond nature, during human life and in a spiritual afterlife; the relationship between the community worship of the chiefs and priests as a ruling class, and family worship from pre-contact to the present; post-conversion Hawaiian conflict in native identity or crisis in self and group esteem, including Hawaiian resiliency in adjusted identity change; the need felt by some emerging native Hawaiian groups to recover self-esteem by pledging faith in ancient religious beliefs and customs, through participation in a revitalized religious setting.

PART II. FEDERAL, STATE, AND LOCAL RELATIONSHIPS

This section of the report covers two separate aspects of the unique interests and needs of native Hawaiians: their land-related claims and interests, and the responses of Federal, State, local, and private entities to their concerns about land and other issues.

"Land Laws and Relationships"

The chapter on "Land Laws and Relationships" reviews land tenure relationships among the king, high chiefs, sub-chiefs (konohiki) and maka'ainana (commoners). It describes traditional land tenure relationships before the arrival of westerners and it reviews changes in these relationships brought about by changes in practice and law from 1778 to 1846. The chapter also sets forth the history of the Board of Land Commissioners, established in 1848 to address landholding matters, and the resulting principles that led to the Great Mahele of 1848. The Great Mahele divided the land of the Hawaiian Kingdom among the king, the chiefs, and the commoners, with designated rights. Resulting landholding relationships are described. Also, the chapter outlines subsequent laws, including the Act of 1846 that permitted sales of government lands, the Kuleana Act that provided for acquisition of land by commoners, and patterns of land acquisition by foreigners.

In response to specific questions about land ownership raised during the course of the January 1982 hearings of the Commission, the chapter also analyzes certain issues of concern to native Hawiians. These issues include a description of water and fishpond rights under Hawaiian law. Fishponds remain in private ownership today, while fisheries are in private ownership only to the extent that the owners followed specified procedures to obtain recognition of their rights. Rights to use of water are established by a series of rules unique to Hawaii and closely related to ancient Hawaii land law. Further, the chapter summarizes geothermal and mineral rights under Hawaiian law, and describes the possible effect of geothermal development on traditional native Hawaiian communities. The history of kuleana land rights (rights accorded to commoners to acquire land), including present problems in ownership of these plots, is described. The Hawaiian law of adverse possession--a legal doctrine that allows persons who have occupied land under certain conditions to claim it for their own--is set forth, and its effect on native Hawaiian landholding rights discussed. Finally, the chapter addresses the necessity of genealogical searches to satisfy land ownership requirements of native Hawaiian landholdings.

"Diplomatic and Congressional History: From Monarchy to Statehood"

This chapter continues on from the history section of Part I. It divides the history of Hawaiian-United States relationships into four sections. The first covers this history from 1875 to 1893. As background, it outlines the events leading to the signing of the Reciprocity Treaty of 1875 between the United States and Hawaii. It also sets forth the relations between the king and certain American advisors who, throughout this period, had a strong influence on Hawaiian policies. The next part of this section encompasses the events from 1881 to 1887, including financial problems in Hawaii and internal political struggles among different American advisors to the crown. The next portion of this section describes the events surrounding the writing of a new constitution in 1887 and the establishment of cabinet government, which subsequently curtailed the power of the king. The period from 1887 to 1893 was marked by efforts of native Hawaiians to take back some of the power that had been removed from them with the formation of a cabinet government. In 1891, King Kalakaua died and Princess Liliuokalani became queen. The final part of this section covers the efforts of the queen to take back authority for the crown and annexation movements during this same period, leading to the sequence of events that resulted in the overthrow of the monarchy.

The second section of this chapter addresses the fall of the monarchy and the annexation of Hawaii to the United States. Because of the sensitivity of this period of history, this section was prepared by a professional historian. It sets forth relationships within Hawaii and between Hawaii and the United States, providing background for the fall of the monarchy. It also details the events of the days and weeks leading up to the establishment of a provisional government and the queen's resignation in January 1893. Further, the section outlines the unsuccessful steps that the queen took in an effort to regain her kingdom. Finally, the section describes the United States' response to the developments in Hawaii, and the resulting efforts to annex Hawaii, first by treaty, and eventually, by joint resolution of both houses of Congress in 1898. Formal transfer of sovereignty occurred on August 12, 1898, when the Hawaiian Islands became a territory of the United States.

The third section of this chapter analyzes a number of specific questions regarding the process of annexation. These include a review of Hawaii's annexation by joint resolution rather than by treaty. The primary reason for the use of the joint resolution was expediency: the United States was concerned about protection of its strategic position in the Pacific; waiting to obtain the required two-thirds majority in the Senate for annexation by treaty could have been too slow to guarantee that protection. This section also describes the Congressional debate surrounding annexation. It then compares the procedures for annexation of Hawaii to the procedures used to annex other territories of the United States, including Florida, Louisiana, and Texas. The final portion of the analysis reviews whether any native Hawaiians signed annexation documents in Hawaii, noting the difficulties of making such an assessment with the genealogical data now available.

The fourth section of the chapter describes the history of Hawaii's admission to statehood, and compares Hawaii's admission to that of Louisiana, Florida, Texas, Oregon and Alaska.

"Existing Law, Native Hawaiians, and Compensation"

The question addressed in this chapter is "whether native Hawaiians are entitled to compensation for loss of land or sovereignty." In light of the history of landholding laws in Hawaii and the history of the fall of the monarchy and annexation, the Commission has examined whether native Hawaiians have any claims under present law for compensation from the United States for loss of land or sovereignty. The chapter first describes the background of law on these matters, and states that much of the law has developed in relation to American Indians. Second, the chapter analyzes whether native Hawaiians meet the legal requirements for holding "aboriginal title" to Crown and Government lands and whether they are entitled to compensation for loss of any such title. It reviews each of the factors that must be met to establish aboriginal title, in light of the history and sociological facts about native Hawaiians. The requirements that must be met are: the group must be a single landowning entity; there must be actual and exclusive use and occupancy of the lands; the use and occupancy must be of a defined area; and the land must be used and occupied for a long time before aboriginal title was extinguished. While the native Hawaiians may meet some of these requirements, they do not meet all of them.

Further, if aboriginal title existed, the question of whether the United States could be responsible to compensate for its loss is determined by when that title was extinguished. The assumption of sovereignty over the area by the United States must have acted to cause the extinguishment of aboriginal title in order for compensation to be considered. The chapter reviews the history of Hawaiian land law, and finds that acts of the Hawaii legislature before 1893 had the effect of extinguishing aboriginal title, if it had indeed existed. Because the United States did not extinguish any such title, it is not responsible to compensate for its loss. Further, any such loss cannot be compensated under either the Fifth Amendment or under the Indian Claims Commission Act, as presently written.

The question of whether native Hawaiians are entitled to compensation for loss of any "recognized" title to Crown and Government lands is also examined in this chapter. It reviews the definition of the possible laws by which the United States may be regarded as having "recognized" that native Hawaiians have title to Crown and Government lands. The analysis determines that the United States did not recognize title of native Hawaiians to these lands. Further, even if there were recognized title, no compensation for loss of that title would be available under present law.

The next section of the chapter considers whether native Hawaiians are entitled to compensation for loss of sovereignty. The section defines sovereignty, primarily as that concept has been developed in the context of Indian tribes. Since the United States Congress can take away sovereignty of native groups at will, loss of sovereignty is not compensable under the Fifth Amendment. Moreover, it cannot be compensated under the Indian Claims Commission Act. Therefore, native Hawaiians have no present legal entitlement to compensation from the United States for any loss of sovereignty.

The next section of this chapter considers whether there is any trust relationship arising from statutes or other laws, between the natives of Hawaii and the United States. It examines each possible source of such a trust relationship and determines that if there is any such relationship, it is at most a very limited special trust that would not entitle native Hawaiians to any compensation. Finally, the chapter compares any possible native Hawaiian claims to claims of native Alaskans, for which the latter were compensated in the Alaska Native Claims Settlement Act.

"Review of Hawaiian Homes Commission Programs"

The review of the Hawaiian Home Lands program was conducted by the Office of Inspector General of the U.S. Department of the Interior, in response to a request in February 1982. The Inspector General submitted a report in September 1982, and it is that report, along with the reply by the Governor of the State of Hawaii, that appears as this chapter of Part II. The report discusses problems concerning the status of the Hawaiian Home Lands, program accomplishment, financial management, applicant eligibility lists, and leasing activities.

"Federal Responses to the Unique Needs of Native Hawaiians"

The steps that the Federal Government is taking to meet the unique needs of native Hawaiians are outlined in this chapter. These include identification of federal programs for which native Hawaiians may be eligible, particularly those programs that meet needs identified in Part I of this report. These responses also include a study of military property requirements in Hawaii, which identifies possible surplus military land. The chapter describes the work of the President's Federal Property Review Board, and states that the federal members of the Commission will work with that Board to ensure that it is aware of the needs of native Hawaiians in considering property dispositions. Finally, the chapter describes the present status of the establishment of the Kaloko/Honokohau National Historic Park.

"State of Hawaii's Responses to Native Hawaiian's Unique Needs"

This chapter describes three groups of steps that the State has taken to address the needs of native Hawaiians. The first section outlines Section 5(f) of the Admission Act. Section 5(f) provides that the State must hold certain lands, including the proceeds from their sale or disposition, as a public trust for the support of the public schools and other public educational institutions, for the betterment of the conditions of native Hawaiians, for the development of farm and home ownership on as widespread a basis as possible, for the making of public improvements, and for the provision of lands for public use. The chapter describes the implementation of this provision, including the return of federally-controlled lands (ceded lands) to the State of Hawaii, the State's responsibilities in relation to the ceded lands, and the State's exercise of those responsibilities.

A second section of this chapter describes the Office of Hawaiian Affairs (OHA), established by an amendment to Hawaii's Constitution in 1978. A primary motive for establishing OHA was to secure a pro rata portion of the public land trust fund for native Hawaiians. OHA also provides an opportunity for all native Hawaiians to choose leaders and exercise self-government and self-determination. OHA's purposes and operations are described.

A final section notes that other existing State programs for education, health, and other needs of native Hawaiians are described in Part I of the Report.

"Private and Local Responses to Special Needs of Native Hawaiians"

The last chapter of the Final Report describes four private organizations that work to meet the needs of native Hawaiians. These are the Kamehameha Schools/Bernice Pauahi Bishop Estate, the Queen Liliuokalani Children's Center, the Lunalilo Home, and Alu Like, Incorporated.

APPENDIX

The Appendix contains four main sections. First, it includes Title III of Public Law 96-565, the Act that created the Native Hawaiians Study Commission. Second, it contains the substitute "Summary of Findings, Conclusions, and Recommendations" section that was submitted by three of the Native Hawaiians Study Commissioners at the Commission's last meeting in March, 1983.

The next section of the Appendix contains a summary of the written comments received by the Native Hawaiians Study Commission during the public comment period on the Commission's Draft Report of Findings. These written comments are reproduced in their entirety, as required by statute, in the final section of the Appendix.

VOLUME II

Volume II contains the dissenting views submitted by Native Hawaiians Study Commissioners Kina'u Kamali'i, Winona Beamer, and H. Rodger Betts.

Conclusions And Recommendations

During the past 18 months, the Native Hawaiians Study Commission has learned a great deal about the culture, needs, and concerns of native Hawaiians. This education has come through study by the Commission and its staff of expert resource documents and data, public testimony from hundreds of native Hawaiians during dozens of hours of public hearings, and close to 100 written comments from individual citizens, private organizations in Hawaii, and State and Federal government agencies on the Commission's Draft Report of Findings. From these contributions, the Commission has compiled what we believe to be the most extensive and up-to-date summary available on the socioeconomic and cultural conditions of native Hawaiians. In addition, the Commission has collected and analyzed important material on key legal and historical factors that may affect matters of concern to many native Hawaiians, such as reparations and land ownership. We also believe that our report to Congress is an important step toward increasing public awareness of native Hawaiians, their history, culture, and special needs.

A. CONCLUSIONS

1. Social, Economic, and Cultural Concerns

The detailed report of the Commission includes extensive data on social, cultural, and economic conditions. This information, in summary, supports the following conclusions:

- After the arrival of foreigners in Hawaii in 1778, the native population drastically declined, both as a percentage of the population and in absolute numbers. This trend was reversed in the beginning of this century when the part-Hawaiian population began a rapid increase, a trend that continues today.

- The native Hawaiian population now constitutes about 19 percent of the State of Hawaii's total population. The population is the youngest, in terms of median age, among Hawaii's ethnic groups and this fact has important implications for education and employment not only today, but in the future as well.

- Native Hawaiians have followed the statewide trend in moving toward the island of Oahu. The Hawaiian Homes program has not alleviated this movement since the majority of applicants desire residential homesteads on Oahu. The reason is obvious: employment opportunities on Oahu are more numerous than on the other islands.

- Although education for native Hawaiians has improved, many problems still remain. Educational data show that native Hawaiian students have high absenteeism and drop-out rates, score lower in some standardized tests, and many do not go on to college. Thus, there are fewer native Hawaiians enrolled at the University of Hawaii and fewer native Hawaiians in the educational workforce. These educational data explain to some degree the problems of native Hawaiians in the employment and income areas.

It has been shown that education is a high priority of native Hawaiian parents, and this fact will facilitate the efforts to improve educational attainment at several levels--the students themselves, the family, the school, the community, and the State.

- Unemployment is a greater problem for the native Hawaiian population than for other ethnic groups in Hawaii. Data also show that native Hawaiians still lag behind most other ethnic groups in terms of the percentage of their population in professional positions. Over 22 percent of native Hawaiian men have jobs classified as "menial."

- Income levels for native Hawaiians fall below that of some of the other ethnic groups. Data for 1977 show that full-Hawaiians had the lowest median family income of civilians in Hawaii compared to other ethnic groups. Part-Hawaiians had the third lowest. As suggested above, lower employment and income are due, to a large extent, to educational and training deficiencies.

- In 1975, over one-fourth (27 percent) of native Hawaiians were classified as below the poverty level. In 1982, the number of native Hawaiians on welfare (Aid to Families with Dependent Children and general assistance) was significantly higher than their relative share of the population.

- The high unemployment rate of native Hawaiians generally, and the educational problems of native Hawaiian youth are reflected in criminal justice data. Native Hawaiian youth constitute the largest percent of juveniles arrested for several crime categories. Alcohol and drug abuse problems also exist for native Hawaiians, although incidence is lower than for some other groups, including Caucasians.

- Native Hawaiians continue to have a shorter life expectancy than other ethnic groups in Hawaii and a higher infant mortality rate. The incidence of cancer is higher than that of other groups for both men and women of native Hawaiian descent. Other health problems include a high prevalence of respiratory conditions and a high mortality rate, particularly for full-blooded Hawaiians, for heart disease, cancer, and accidents.

- Given the high cost of housing on the islands, housing problems exist for all groups in Hawaii: the median value of a house in Hawaii is two and one-half times greater than the 1980 national median value. The lack of adequate housing may be even more acute for native Hawaiians because of their lower income levels. For native Hawaiians on Hawaiian Home Lands, there exist impediments that prevent them from using the assistance programs of the U.S. Department of Housing and Urban Development.

- The State of Hawaii consists of a population of considerable racial and cultural diversity. From the earliest times, interracial marriage was accepted by the community. Native Hawaiians have among the highest interracial marriage rates. This racial and ethnic mixture has affected the political sphere. Since the 1930's, no one ethnic group has had an electoral majority, although ethnic factors do play a role in politics in Hawaii.

- The native Hawaiian people have a rich cultural heritage. An important part of that heritage is the Hawaiian language, as demonstrated by the attempts that are being made to revive and preserve it. Another key aspect of this cultural heritage is the native Hawaiian religion and its relationship to the needs of native Hawaiians today. Historical preservation could play a greater role in preserving this heritage.

2. Federal, State, and Local Relationships

The Final Report of the Native Hawaiians Study Commission also analyzes issues related to Hawaiian history and land ownership. This information and analysis support the following conclusions:

- The history of land ownership and tenure in Hawaii is unique and complex. In the mid-nineteenth century the king developed a process and had enacted a series of laws to change the ownership patterns to fee simple ownership. These laws, the way they were implemented, and other economic, social, and political forces in Hawaii at the time put a large amount of Hawaii's land in the hands of westerners by 1890.

- Native Hawaiians have expressed concern about a number of specific legal questions that affect land ownership. Some of these questions, such as ownership problems arising from the exercise of kuleana land rights, are unique to Hawaii and will take time to resolve. Others, such as laws affecting rights to water and adverse possession, are similar to problems existing in many other states.

- Hawaii has a long and rich history. As a separate sovereign nation, it developed relations with the United States through treaties and other dealings prior to 1893. For example, treaties were developed between the two countries to facilitate trade and to serve the interests of those in Hawaii seeking economic development to improve the country's financial situation. The treaties also promoted the economic, security, and defense interests of the United States. In addition to these foreign policy considerations, tensions between the monarch and the legislature also affected Hawaiian politics during these years, as did efforts by the native Hawaiians to regain power from reformers. The culmination of these trends occurred in 1891 when Liliuokalani became queen and attempted to reassert the power of the throne against the legislature and the reformers.

- In 1893 the monarchy was overthrown. The overthrow, and the lack of resistance by the queen and her cabinet, was encouraged in part by the presence of United States forces, consisting of one company of Marines and two companies of sailors (approximately 100 men), acting without express authority from the United States Government.

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- President Cleveland, inaugurated just after the landing of United States forces, dispatched Representative Blount to investigate the events. His report blamed the American Minister, John L. Stevens, for the revolution. The United States Senate then commissioned the Morgan report, which reached an almost opposite conclusion. The Commission believes the truth lies between these two reports.

- In 1897, Hawaii's new government and the United States entered into an agreement that Hawaii would be annexed to the United States. The annexation question was submitted for consideration by the Hawaii legislature. In the United States, it was passed by Joint Resolution of both houses of Congress, rather than as a Treaty requiring a two-thirds majority of the Senate. President McKinley's concern to secure a foothold in the Pacific for the United States in the face of the Spanish-American War prompted use of a Joint Resolution. (Texas is the only other territory that was annexed to the United States by Joint Resolution.) The relations between the United States and Hawaii up to the time of annexation were relations between two separate, sovereign nations, not between a sovereign and those subject to its sovereignty.

- Determining if any native Hawaiians signed annexation documents is difficult without extensive genealogical research. An estimate is that six native Hawaiians were in the Hawaiian legislature when it adopted the 1894 Constitution calling for annexation.

- In 1959, Hawaii became a State of the United States. The history of its admission to statehood, like that of other states, is unique.

- The Commission examined both common law and statutes to determine whether there currently exists any legal basis for compensation for loss of land. The Commission also reviewed articles and reports making the legal argument for compensation. Generally, the most likely possible theories for the award of compensation to native groups for loss of land were aboriginal title or recognized title doctrines:

  - The law has developed specific tests for establishing aboriginal title: the group must be a single land-owning entity; there must be actual and exclusive use and occupancy of the lands; the use and occupancy must be of a defined area; the land must have been used and occupied for a long time before aboriginal title was extinguished. Additionally, title must have been extinguished by the government of the United States, not by another body, such as the government of Hawaii before the United States annexed Hawaii. Finally, some law must give the native group, here the native Hawaiians, a right to compensation for loss of aboriginal title. The Commission finds that the facts do not meet the tests for showing the existence of aboriginal title. Even if the tests had been met, the Commission finds that such title was extinguished by actions of the Hawaiian government before 1893, and certainly before annexation, which was the first assumption of sovereignty by the United States. Finally, even if these tests had been met, neither the Fifth Amendment to the United States Constitution nor current statutes provide authority for payment of compensation to native Hawaiians for loss of aboriginal title.

- The law also has developed specific legal requirements for compensation of loss of lands by recognized title. The Commission examined the question of whether treaties and statutes, the Joint Resolution of Annexation, or the Fifth Amendment to the United States Constitution provide a basis for payment under the theory of recognized title, and concluded that no basis exists.

- The Commission examined whether a trust or fiduciary relationship exists between the United States and native Hawaiians and concluded that no statutes or treaties give rise to such a relationship because the United States did not exercise sovereignty over the Hawaiian Islands prior to annexation, and the Joint Resolution of Annexation, No. 55 (July 7, 1898) did not create a special relationship for native Hawaiians.

- The Commission considered whether native Hawaiians are entitled to compensation for loss of sovereignty, and found no present legal entitlement to compensation for any loss of sovereignty.

- A report prepared by the Inspector General of the Department of the Interior summarized a number of problems with regard to the Hawaiian Home Lands program. A Federal/State Task Force was created to propose solutions to these problems and its report is due to the Governor of Hawaii and the U.S. Secretary of Interior by mid-1983.

- The State of Hawaii has taken a number of steps to respond to the unique needs of native Hawaiians. These include acquisition and disposition of revenue pursuant to Section 5(f) of the Statehood Admissions Act; establishment of the Office of Hawaiian Affairs; and establishment of particular programs specifically for native Hawaiians within other departments of the State Government.

- A number of private and local organizations have also worked to meet the unique needs of native Hawaiians. These groups have been funded either by endowments (often from the estates of kings or queens of Hawaii), or by the Federal Government.

To summarize the Commission's findings with regard to the overthrow of the Hawaiian monarchy: Based upon the information available to it, the Commission concluded that Minister John L. Stevens and certain other individuals occupying positions with the U.S. Government participated in activities contributing to the overthrow of the Hawaiian monarchy on January 17, 1893. The Commission was unable to conclude that these activities were sanctioned by the President or the Congress. In fact, official government records lend strong support to the conclusion that Minister Stevens' actions were not sanctioned.

Besides the findings summarized above, the Commission concludes that, as an ethical or moral matter, Congress should not provide for native Hawaiians to receive compensation either for loss of land or of sovereignty. Reviewing the situation generally, including the historical changes in Hawaii's land laws and constitution before 1893, the Hawaiian political climate that led to the overthrow, the lack of authorized involvement by the United States, and the apparent limited role of United States forces in the overthrow, the Commission found that on an ethical or moral basis, native Hawaiians should not receive reparations. In reaching this conclusion, the Commission did not find the Hawaiian circumstances analogous to the time when Congress voted payments to Colombia, as a result of the U.S. role in Panama. Those payments were based, in part, on the breach of commitments by the United States Government under an 1846 treaty guaranteeing to Colombia the "right of sovereignty and property" over the Isthmus of Panama, and, in part, on commitments owed to Colombia pursuant to certain contracts.

Nevertheless, the Commission strongly recommends that the issue of reparations not impede the important steps that should be taken now to improve the condition of native Hawaiians. Based on the information it has collected, the Commission believes that the social and economic problems of native Hawaiians deserve immediate action and that these needs should be addressed promptly.

B. RECOMMENDATIONS

Based on its findings, the Commission would recommend consideration of early action in the following areas:

- Additional educational and training opportunities to better equip native Hawaiians for employment.

- Information services and technical assistance to assist both job applicants and small business concerns.

  [These measures should help deal with problems involving education, unemployment, crime, and alcohol and drug abuse, which appear to be related.]

- Additional nutrition education programs and research to assist in reducing incidence of disease and accidents, and to reduce mortality rates.

- Specific assistance to native Hawaiians in finding housing.

- Continued efforts to offer opportunities for native Hawaiians to learn about and develop a sense of pride in their culture.

Steps can be taken by private individuals and organizations and by governments at all levels to address these areas of concern. The Commission feels that private groups and local governmental units may be most effective in addressing many of these problems because they are closer to the native Hawaiians, better understand their needs, and can most easily adjust their priorities. The next most effective level is the State Government, which already has in place several programs that address specific needs of native Hawaiians. Finally, there are existing programs within the Federal Government that also may be of use in addressing these needs. Therefore, as an action program is developed, the Commission recommends that, in order of priority:

- First consideration should be given to efforts that are undertaken by private native Hawaiian groups. In fact, such groups have made significant contributions, which can and should be expanded. Examples of effective private groups that could expand and/or redirect their activities include: Alu Like, Inc., the Hawaiian Civic Club, and the Bishop Estate.

- Second consideration should be given to efforts of local governmental units. Local governments should be in a good position to work directly with native Hawaiians in formulating solutions for their particular needs.

- Third consideration should be given to existing State government agencies that specifically deal with concerns of native Hawaiians. The primary examples are the Office of Hawaiian Affairs and the Department of Hawaiian Home Lands. (It should be noted that the Federal/State Task Force on the Hawaiian Home Lands program will make specific recommendations on how this program can better serve its constituents.)

- Fourth consideration should be given to efforts of State government agencies and the Governor who administer various State and Federal programs that apply either (a) only to native Hawaiians, or (b) to various citizens including native Hawaiians.

- Fifth consideration should be given to a wide variety of Federal programs that are already available or that could be made available to help address specific needs. Private, local, and State officials in Hawaii should take the initiative to become aware of available programs, secure and disseminate information on them, and ensure that native Hawaiians have equal access to those programs.

Possible Specific Actions

Within this framework, it appears to the Commission that a number of specific actions can be taken to speed the application of resources to needed areas. For example, the Commission recommends that:

1. In the area of education, appropriate private, local, and State organizations should consider:

    - Instituting a program to encourage educational development that emphasizes the importance of education for native Hawaiian youth, and recruits eligible native Hawaiian students to pursue higher education.

- Expanding the Hawaiian Studies Program to meet the goal of promoting the opportunity for all age groups to study Hawaiian culture, history, and language in public schools.

- Establishing a clearinghouse, perhaps under the auspices of the University of Hawaii, to provide information on financial aid available to prospective college students from Federal and State Governments, and from private individuals and organizations, and to make this information available to high schools throughout the State.

- Making sure that Federal programs for vocational training funded through block grants are targeted to groups most in need, including native Hawaiians.

2. In the area of health, appropriate private, local, and State organizations should consider:

   - Systematically collecting, recording, and analyzing critical health data on Hawaiians for use in specific health benefit programs.

   - Including a specific focus on the special needs of native Hawaiians in nutrition education programs (Federally- and State-funded) for children and adults.

   - Using the clearinghouse organization suggested in number 5 below to assist organizations in applying for Federal grants to tailor nutritional information specifically to the native Hawaiians and their lifestyle.

   - Initiating efforts to ensure that information on specific Federal programs (for example, supplemental food program for women, infants, and children) is disseminated through native Hawaiian organizations, and recruit eligible native Hawaiians to participate in these programs.

   - Ensuring that a fair share of Federal block grant monies are directed toward alleviating specific health problems, including those of concern to native Hawaiians, such as infant mortality and child and maternal care.

3. In the area of housing, appropriate private, local, and State organizations should consider:

   - Instituting efforts to disseminate information on federal housing programs to native Hawaiians.

   - Assisting individuals and builders in applying for these programs.

4. In the area of culture, appropriate private, local, and State organizations should consider:

   - Giving higher priority to native Hawaiian sites in considering nominations for the National Register of Historic Places; activating the State Historic Preservation Plan and revising, in consultation with native Hawaiians, the plan in an effort to ensure protection of ancient Hawaiian artifacts and sites.

- Instituting a mechanism, perhaps under the Bishop Museum, to collect information on existing federal programs in the area of the arts and humanities and assisting native Hawaiians who wish to apply for these programs.

5. The Governor should consider creating, perhaps within an existing agency or organization, a group to:

   - Act as a clearinghouse for information on existing federal programs that can be of help to native Hawaiians. The existing Catalog of Federal Domestic Assistance can provide an excellent starting point; and

   - Perform a "facilitating" role by assisting individuals and groups in identifying relevant programs, contacting appropriate officials, and writing applications and proposals.

6. During the course of its study, the Commission found a diversity of data uses and collection methods among State agencies and between State and Federal agencies, resulting in data on native Hawaiians that are not comparable. Therefore, the Governor should consider reviewing the use of population figures and the methodologies used in data collection on native Hawaiians to ensure consistency among State agencies. Then, the Governor should make recommendations to the U.S. Bureau of the Census on specific changes for the 1990 Census that would ensure comparability between State and Federal data.

Actions by Federal Agencies

The Commission also recommends that the heads of all Federal departments and agencies act to ensure that the needs and concerns of native Hawaiians, to the extent identified and defined in the Commission's Report, be brought to the attention of their program administrators; that these administrators consult officials in Hawaii for further guidance on specific programs; and, once this guidance is received, consider actions that could be taken to ensure full and equal access by native Hawaiians to various assistance programs. Among those programs that appear to the Commission to warrant special attention are the following:

1. In the Department of Education, guaranteed student loans; program grants for educationally-deprived children; educational opportunity grants.

2. In the Small Business Administration, programs to provide technical assistance, advisory services, and grants and loans to small businesses, such as Economic Opportunity Loans for Small Businesses, Management Assistance to Small Businesses, Management and Technical Assistance for Disadvantaged Businessmen, and Small Business Loans.

3. In the Department of Labor, the employment and training programs for Native Americans (including native Hawaiians) under the Job Training Partnership Act.

4. In the Department of Health and Human Services, programs for native Hawaiians under the Administration for Native Americans, including financial assistance, training and technical assistance, and research, demonstration and evaluation; Alcohol, Drug Abuse, and Mental Health Administration project grant and information programs; Maternity and Child Health Program; Head Start.

5. In the Department of Housing and Urban Development, programs to assist native Hawaiians in obtaining adequate housing, including guaranteed/insured housing loans, interest reduction programs, mortgage insurance, home improvement programs, guaranteed/insured loans for rental units, and housing programs for the handicapped and elderly.

   The Commission also supports legislation pending in the U.S. Congress that would change the National Housing Act to allow FHA single-family mortgage insurance to be extended to lands administered by the Hawaiian Homes Commission for the use and benefit of native Hawaiians, without regard to limitations regarding marketability of title.

6. In the Department of Agriculture, rural housing and farm operating loans from the Farmers Home Administration for Hawaiian Home lands.

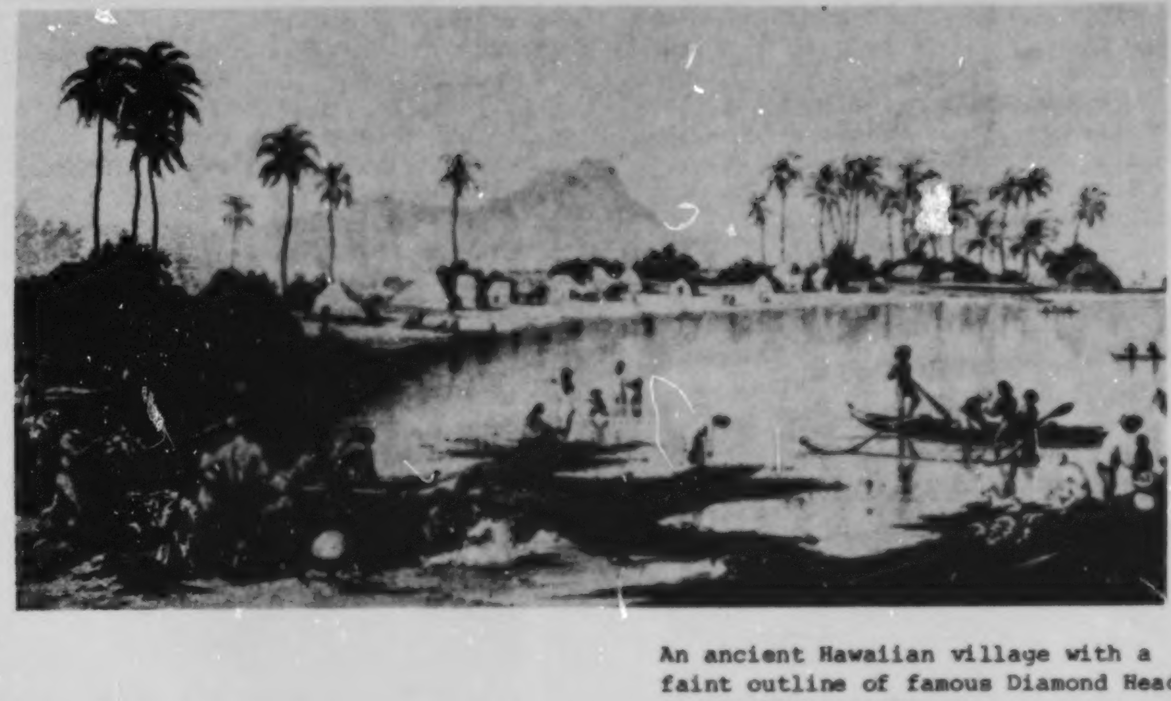
7. In the National Institutes of Health, programs dealing with heart disease of the National Heart, Lung, and Blood Institute; grants and contracts relating to cancer, funded by the National Cancer Institute; other programs in NIH that address the special health problems of native Hawaiians, such as infant mortality.

8. In the Department of the Interior, programs in the area of historic preservation, and educational/cultural programs in conjunction with National Parks and Monuments in Hawaii.

9. The Federal Property Review Board should continue to consider the unique needs of native Hawaiians when property use is reviewed and when disposition of surplus federal property is considered.

Part I

Socioeconomic And Cultural Section



Lithography by Burgess.

An ancient Hawaiian village with a faint outline of famous Diamond Head in the background.

Demographics

A. INTRODUCTION

Profile of Hawaii 1/

The State of Hawaii consists of eight major southerly islands in a chain of islands and 124 minor islands with a total area of 6,450 square miles. Of this total, 6,425 miles are land and 25 are inland waters.

The eight major islands total 4,126,000 acres of land area, of which 98 percent form the six major islands of Hawaii, Maui, Oahu, Kauai, Molokai, and Lanai (in order of largest land mass). The seventh island, Niihau, is privately owned and the eighth, Kahoolawe, is a military bombing range and uninhabitable.

There are three levels of government in Hawaii--Federal, State, and County. There are only four counties. The seat of the State Government is in the State Capitol at Honolulu on the island of Oahu, which houses the State Legislature and the Governor's offices.

The major industries in Hawaii have shifted from those that are primarily agricultural to service industries. In order of importance, the major industries today in Hawaii are:

- Tourism
- Construction
- Sugar
- Pineapple
- Defense
- Diversified Agriculture

Data Sources and Reliability 2/

The sources used in the descriptions that follow in this chapter are diverse, with varying degrees of reliability. Essentially two types of sources were used to compile the data in this chapter: scholarly demographic studies (for example, Adams, Lind, and Taeuber), and official government censuses and statistics (Schmitt for earlier figures, U.S. Bureau of the Census data, and State of Hawaii statistics).

As always in the use of statistics, there are inherent dangers of misclassification and misinterpretation. Earlier data are less reliable than later data. Some data collected by the Federal Government directly after statehood in 1959 are unusable because mainland race classifications are meaningless in Hawaii. Some data are not collected by ethnic groups by either the State or Federal Governments. It is hoped, however, that the wide variety of data used here will obviate some of these problems. Even where precise information is not available for lack of data, the reader may at least be able to discern trends in each of the areas discussed.

The most complete statistical compilation, from the earliest available figures to postcensal estimates made by the State in 1965, is contained in a book written by Robert C. Schmitt, Hawaii State Statistician. 3/ Schmitt reviews the various sources of demographic data for accuracy and reliability. A brief summary of his review will give a general idea of much of the data used here.

There are numerous problems with the earliest available data. Captain Cook's estimates and those of others for the original population count of Hawaiians in 1778 ranged from 100,000 to 500,000. 4/ Estimates are almost completely missing from 1779 to 1822. The sociologist, Romanzo Adams, did much research to fill in this gap. Missionary estimates after 1823 are characterized by Adams as "not very accurate, but nevertheless, valuable." 5/ The first censuses in 1839, 1847, and 1848 were not successful. A moderately successful count was obtained in 1849, but 1850 is the date of the first acceptable population count.

Censuses were taken by the kingdom of Hawaii from 1847 to 1896. The last census, in 1896, was accurate and comprehensive. Problems with the kingdom's census data include the fact that age data were most frequently misreported and ethnic breakdowns were different from those used after annexation. However, Schmitt evaluates the kingdom's census data as follows:

> Findings were usually consistent with what is known of the general social and economic conditions of the period. Notwithstanding their limitations, the censuses contributed greatly to knowledge of the demography of Hawaii. 6/

From 1900 to 1980, U.S. Bureau of the Census data can be used. Here again problems occur, especially in the area of misclassification of race. Schmitt says of the U.S. Census data:

> Although the errors and discrepancies cited...sometimes involve thousands of persons, their net effect is often insignificant in relation to the total population. For all their limitations, the U.S. census reports offer an unequaled statistical picture of the social, demographic and economic development of Hawaii since 1900. 7/

There are important considerations that must be taken into account in using U.S. Census data and the statistics compiled by the State of Hawaii. For the 1980 U.S. Census, "race" was assigned on the basis of self-identification. If the person was unsure of his/her race, the race of the mother was used (in 1970, race of the father was used). In gathering State of Hawaii statistics, respondents are asked their ethnic composition and those with mixed blood, including part-Hawaiian, are included in the latter category. Exacerbating this difference is the fact that in 1970 and 1980, the category "part-Hawaiian" was not used in the U.S. Census. Many part-Hawaiians may have believed that the "Hawaiian" category was only for those with a large percentage of Hawaiian blood.*/

The natural result of the differences in these methods is that the State of Hawaii counts many more native Hawaiians than the U.S. Census does and, therefore, State and U.S. Census figures cannot be accurately compared. The actual effects of these differences are a matter of debate that cannot be resolved at this time. However, the reader should at least be aware that this issue exists. In this Report, the origin of the statistics used is clearly identified in the text or in each table.

Definitions

The definition used by the U.S. Congress for the term "native Hawaiian" in the Act creating the Native Hawaiians Study Commission is as follows: "any individual whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778." 8/ Confusion arises, particularly in an historical overview, between full-Hawaiians, part-Hawaiians, and Hawaiians of 50 percent blood quantum of the races inhabiting the Hawaiian Islands prior to 1778 (the definition for inclusion in the Hawaiian Home Lands program).

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*/ For a more complete explanation of the differences in the data collection for the 1970 and 1980 censuses, see page 41, below.

For the purposes of this Report, the Commission has decided that the following definitions will always apply, 9/ unless otherwise noted in the text:

Hawaiian or full-Hawaiian: Pure-blooded Hawaiian;

Part-Hawaiian: Any individual of mixed blood whose ancestors were natives of Hawaii prior to 1778;

Native Hawaiian(s): */ Either full- or part-Hawaiian; in the plural, the combination of both groups as defined above.

Historical Background **/

The period after the arrival of Captain Cook, from 1778 to 1850, was one of sweeping changes in the Hawaiian Islands. The native population declined drastically as a result of declining birth rates and high mortality rates. Urban centers grew up around Honolulu, Hilo, and Lahaina as trade with foreigners increased. Native Hawaiian men signed up as sailors on foreign ships, never to return. Foreigners began to take up residence on the islands, and the first indentured laborers arrived.

The changes from 1850 to 1900 were no less drastic. The population decline of the islands as a whole was arrested and began a rapid increase, swelled by thousands of immigrant laborers. The composition of the population (age, sex, race, marital status) was dramatically altered, however, as the native population continued its decline. Constitutional government was introduced, and the system of land ownership was changed. By the end of this period, the monarchy did not even exist, replaced in 1894 by a caretaker Republic awaiting annexation to the United States.

The period from 1900 to 1960 covers Hawaii's territorial years. The full-Hawaiian population continued its decline, while there was a dramatic increase in the part-Hawaiian population as inter-marriage among Hawaii's ethnic groups increased. Large numbers of immigrant laborers continued to enter Hawaii in the first half of the period. The second half saw a great increase in the number of U.S. military personnel.

From 1960 to 1980, the change from an agricultural economy to a service economy is clearly evident. The native Hawaiian population continued to increase, and a Hawaiian "cultural revival" began.

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*/ When discussing the beneficiaries of the Hawaiian Homes Commission Act, however, "native Hawaiian" refers to those descendants of not less than one-half-part blood of the races that inhabited the Hawaiian Islands prior to 1778.

**/ For a more complete history, see Part I, "Ancient History to the Reciprocity Treaty," and Part II, "Diplomatic and Congressional History: From Monarchy to Statehood."

B. POPULATION AND COMPOSITION OF POPULATION

Population Trends from 1778 to 1850

It is probable that Hawaii was first inhabited by "a few hundred" Polynesians who arrived in large, doubled-hulled canoes. From this modest beginning, the native Hawaiian population was estimated to be between 100,000 and 500,000 people at the time of first Western contact in 1778. The population figure that has come to be accepted by most authors is 300,000. Captain Cook found an island grouping fully populated, based on a subsistence economy with a strict hierarchical social system, and kings on various islands in almost constant warfare with each other.

Contact with foreigners after centuries of isolation from the rest of the world greatly changed the islands and their people. The total population of Hawaii for the period from 1778 to 1850 declined dramatically, from approximately 300,000 in 1778 to 84,000 in 1850. Table 1 and Chart 1 illustrate this decline. */ The major causes of the decline are examined in the next section.

Causes of Population Decline **/

Population growth or decline is the net result of four forces: birth, death, in- and out-migration. Until the first immigrants arrived in 1852, the natural decrease outweighed migration in determining the demographic make-up of Hawaii.

Epidemics and Diseases: When British Captain James Cook anchored off the island of Kauai on January 18, 1778, his rediscovery ended the prolonged isolation of the Hawaiian Islands. This lack of contact had left the native population with no built-up immunities and virtually defenseless to disease. Unlike continental peoples, the vast oceanic distances among the Pacific island groups had effectively prevented the spread of any bacterial or viral illnesses anywhere in Polynesia. As a result, Western contact in Polynesia meant the introduction of diseases that proved to be devastating to the island population. The first to be introduced in Hawaii was venereal disease.

The physical mobility among the islands and the accepted sexual behavior of native Hawaiians had assured the spread of the disease. (Although syphilis is not an immediate threat to the size of a population, its effects on the incidence and health of children born to parents carrying the disease very often include deformity or early death.) It was also the custom of native Hawaiians not to permit deformed children to survive birth. This practice of native infanticide was reported by Westerners for the next 50 years, but the exact number of such deaths will never be known.

Hawaii State Statistician Robert C. Schmitt wrote that:

> ...the roles of abortion, infanticide, and infant mortality are difficult to assess. Artemas Bishop, writing in 1838, noted that "the great majority of the children born in the islands die before they are two years old." Some students attributed the frequent barrenness, stillbirths, and infant deaths to venereal disease. Abortion and infanticide, known to have existed in pre-contact times, reached new highs in 1819-1825 and 1832-1836... 10/

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*/ All tables and charts appear at the end of the chapter.

**/ For more data on the historical development of native Hawaiian health, see below, pages 99 to 109.

These dates indicate generational patterns, suggesting that the impact of venereal disease continued for at least three generations before it abated or became a less virulent strain.

The lack of any natural immunity to Western diseases among the native Hawaiians was far more dramatically traceable with the introduction of air- or water-borne contagion. The first recorded epidemic occurred in 1804. From native accounts of the symptoms, it is now assumed that outbreaks of either cholera or bubonic plague occurred. Of an estimated population of 280,000 in the year before this epidemic, nearly half succumbed.

Later epidemics also contributed to the high mortality rate: influenza first appeared in 1826, and measles, whooping cough, diarrhea, and influenza struck in rapid succession in 1848 and 1849.

Other causes mentioned by authors for the declining population are:

- Limited knowledge of treatment for certain diseases, poor infant care, breakdown of the old moral order, and disruption of important economic activities; 11/

- Inter-island warfare that did not abate until 1795 and infanticide, mostly of females, to balance the loss of males in war; and

- The sandalwood trade, which caused innumerable natives to work gathering sandalwood, weakened them, and caused them to neglect other economic pursuits, such as fishing and farming. 12/

Migration: Although it was not a major cause of population decline, the migration of young Hawaiian men did play a role. The recruitment of native Hawaiians as crew members for visiting ships evidently began in 1788. Romanzo Adams estimated that the number of island seamen increased from 200 in 1823 to 300 in 1825, 400 in 1832, 600 in 1836, 3,500 in 1848, and 4,000 in 1850. At mid-century, then, nearly 5 percent of the total Hawaiian population had enlisted as sailors. More importantly, this group accounted for approximately 12 percent of all Hawaiian males 18 years of age or older. 13/

Population Trends from 1850 to 1896

According to the census data of the kingdom, this period witnessed the reversal of the decline in the overall population of Hawaii. While there was a 3.5 percent per year population decline in 1853, the population in 1896 was increasing at a rate of 3.3 percent per year (see Table 2).

However, far-reaching changes were occurring in the lifestyle and composition of the population, as the native population continued its decline. Central to this transformation was the importation of laborers, beginning in 1852, to work the newly-established sugar plantations. The effects of the plantation system are evident in the increase of non-Hawaiians, a considerable excess of males over females, and a youthful population.

Immigration

Although there was a sufficient number of Hawaiians to meet the labor needs of the plantations, the native cultural pattern of subsistence living was not conducive to plantation labor. As Lind concluded, since Hawaiians could satisfy their simple living expectations by a few hours toil in the taro patches, "there was little reason for the Hawaiians to offer themselves as plantation laborers under the onerous and confining conditions which prevailed--long hours of hard labor under driving rain and hot tropical sun..." 14/

The first immigrant labor group to arrive was the Chinese, followed by Japanese and, eventually, others. This new infusion of population from China and Japan brought with it new diseases. The first outbreak of leprosy occurred as a result. (Hawaiians called the disease ma'i Pake--the Chinese sickness.) The kingdom of Hawaii responded with quarantine stations to examine all incoming workers. However, the dread disease had established itself within the population, and, in an attempt to contain its spread, the leper settlement at Kalaupapa on the island of Molokai was established.

In any event, the greater consequence of labor immigration was the change in the composition of the total population. By 1896, full-Hawaiians represented less than half of the total population for the first time. Within a decade, this change was even more pronounced, as the Hawaiian population was less than one-third the number of non-natives, as shown in Chart 2.

As Chart 3 shows, most conspicuous in this non-native population were Asian immigrants, primarily from China and Japan. Especially after favorable arrangements for Hawaiian sugar were established with the United States in the Reciprocity Treaty of 1876, this portion of the population increased even more.

The influx of immigrant population--largely adult males--created an imbalance in the male/female ratio. Only Portugal required the re-settlement of wives and children as a condition of labor contracts. Although later efforts were made by the nation of Japan to facilitate "picture bride" arrangements for their people, plantations continued to assume that workers would return to their native countries. However, as might be expected in such a situation, patterns of increasing inter-marriage began to emerge.

Although intimate contact is known to have occurred between Hawaiians and Westerners since 1778, it was not until the Census of 1850 that a separate category designated "half caste" began to enumerate the children of these unions. In that year, more than 500 hapa haole children were counted. Three years later, this number had doubled. By 1890, this change in the genetic background of native Hawaiians accounted for about 15 percent of the total native Hawaiian population, as shown in Table 3.

Population Trends from 1900 to 1960

With the emergence of a new group composed of full- and part-Hawaiians (see Table 4), there was a significant reversal in the declining native Hawaiian population trend in the first half of the twentieth century. Major factors that accounted for this population increase were: establishment of a program of Western preventive medicine and Hawaiians learning the value of Western medicine and changing their mode of life accordingly; the build-up of some immunity to disease; and growing inter-marriage. Part-Hawaiians have become Hawaii's most rapidly expanding ethnic group. 15/

Age and sex pyramids for the native Hawaiian population (illustrated in Chart 4) nearly approximate a normal distribution. The base is decidedly broad in 1920 and even broader in 1960; the broader the base, the younger the population. The median age of 16.0 for native Hawaiian males in 1960 was lower than that of any other major ethnic group in Hawaii.

Population Trends from 1960 to 1980

Federal and State figures vary substantially on the population of Hawaii in 1980. Table 5 shows the U.S. Census Bureau tally for Hawaii in

1970 and 1980. The 1970 total for native Hawaiians of 71,375, seems disproportionately low, given the combined (Hawaiian and part-Hawaiian) total of 102,403 in 1960 (revised estimate) and 115,962 in 1980. This discrepancy is probably due to the differences in the methods of data collection that were employed in the 1970 census for Hawaii.*/ In spite of this anomaly, the trend of an increasing native Hawaiian population is continuing. The 1970 census shows that 9.3 percent of Hawaii's population was native Hawaiian. The comparable figure for 1980 was 12.0 percent.

Population statistics from the State of Hawaii Data Book for 1981 vary widely from the U.S. Census information (see Table 6). In the State's tabulation, full- and part-Hawaiians comprise 18.9 percent of the total Hawaii population with a total of 175,453 persons, compared to the 12 percent (or 115,962) figure from the 1980 U.S. Census.

The differences are due largely to the definitions used in collecting the data (see above, page 36). That is, persons of mixed race are shown separately in the State table, while in the 1980 Census tabulations they are assigned to one of the unmixed groups on the basis of self-identification or race of the mother. In the 1970 U.S. Census, self-identification or the race of the father was used in ethnic classifications.

Age/sex statistics from the U.S. Census Bureau for 1970 confirm previous figures showing that many native Hawaiians are in the younger age brackets. The median age for males was 19.7 (higher than the 1960 figure of 16) and 21.8 for females. Over 48 percent of the native Hawaiian population in 1970 was 19 years old or younger.

Data from the 1980 Census shows that native Hawaiians continue to be the youngest ethnic group in the State. Table 7 displays median ages for Hawaii's major ethnic groups. For native Hawaiians, the median age for males was 22.0 (compared to 27.6 for all races) and 23.2 for females (compared to 29.1 for all races).

The ratio between males and females continues to display the trend shown in the pyramid charts discussed on the preceding page. Of the total native Hawaiian population between the ages of 20 and 39, 53 percent are female and 47 percent are male. In the 1980 Census, 49.5 percent of all native Hawaiians were male and 50.5 percent were female.

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*/ According to the U.S. Bureau of the Census, Subject Report, Japanense, Chinese and Filipinos in the United States, PC (2)-IG, p. XI: "Racial statistics for Hawaii are not strictly comparable with those from earlier censuses for several reasons, including the elimination of the racial category 'part Hawaiian' and changes in the rules on racial classification for persons with racially mixed parentage. In 1960, 'part Hawaiian' was included as a separate category in the race item. Mixtures of Hawaiian and any other race were classified as 'part Hawaiian.' In 1960, 91,109 persons, or 14 percent of the total population of Hawaii, were included in this category. In the 1970 census, persons of mixed descent were asked to enter the race with which they identified themselves. When persons were in doubt about their racial classification, the father's race was used."

On the other hand, persons were asked in the 1980 census to report the race with which they most clearly identified. In Hawaii, persons who reported "Part Hawaiian" were classified as "Hawaiian." Persons reporting more than one race were asked to report the one with which they most closely identified. Finally, in those cases where the respondent could not report one race, the race of the mother was used.

Summary

After the arrival of foreigners, the native population of the Hawaiian Islands began a drastic decline. The major causes of this depopulation were epidemics and disease. The population of the Hawaiian Kingdom as a whole began to increase in the second half of the nineteenth century, largely through the importation of immigrant laborers to work in Hawaii's sugar fields. The result of this immigration, along with the continuing decline of the native Hawaiian population, was a decrease in the proportion of native Hawaiians in the total population. By the end of the century, native Hawaiians accounted for less than one-third of Hawaii's total population.

The part-Hawaiian population began to increase dramatically after the turn of the century. The primary reasons for this were better health and increased inter-marriage with other racial groups.

Today, the native Hawaiian population of Hawaii can be characterized as follows:

- According to the State of Hawaii, there are 9,366 full-Hawaiians and 166,087 part-Hawaiians, constituting about 19 percent of the State's population;
- Native Hawaiians are a young population--in 1980, the median age for males was 22.0, and the median age for females was 23.2; and
- The male/female ratio for native Hawaiians is fairly equal--in 1980 males accounted for 49.5 percent of the native Hawaiian population, and females accounted for 50.5 percent.

C. GEOGRAPHIC DISTRIBUTION

Prior to the arrival of foreigners, the geographic distribution of the native population among the eight major islands of Hawaii was a direct consequence of the ability of the land area to sustain necessary crops and fish. Estimates at the time of contact placed the greatest native numbers on the island of Hawaii, followed by Maui, and then Oahu. (Not coincidentally, this ordering is also indicative of the physical area of each island.)

Pre-contact settlement was organized within the ahupua'a:

> ...the basic landholding unit was the ahupua'a, which ranged in size from 100 to 100,000 acres and usually had natural boundaries. The ideal ahupua'a was an economically self-sufficient pie-shaped unit which ran from mountain tops down ridges to the sea. Most ahupua'a were in turn divided into ili, some of which were virtually independent while others were mere operating sub-divisions of the ahupua'a. A hierarchical society paralleled this pattern of land division. At the top, a chief controlled each ahupua'a; land agents (konohiki) and subchiefs subordinate to the chief controlled smaller amounts of land; and at the bottom of the hierarchy, common farmers worked the land for the benefit of the chief. Commoners had other plots for their own use and had certain gathering rights in the non-cultivated lands of the ahupua'a ...16/

1778 to 1850

During the period from 1778 to 1851, each of the islands experienced a decrease in population roughly equivalent to the general population decline caused by death. Movement from the strictly rural settings of the traditional lifestyle, however, occurred as a response to early commercial activities around port areas. In particular, Lahaina on Maui and Honolulu on Oahu began to acquire urban dimensions (see Table 8).

The sandalwood trade contributed to this early drift to the port areas. As the first export item of the islands, individual chiefs redirected the activities of the people within their ahupua'a to the gathering of the fragrant wood. King Kamehameha I became aware that the country was in danger of severe famine because of the neglect of farming and fishing as a result of this redirection. As a consequence, he ordered chiefs and people to devote more time to other activities, proclaimed all sandalwood to be the property of the government, and prohibited the cutting of young and small trees to conserve this natural resource. 17/ Liloliho, who succeeded Kamehameha I as king, lifted these restrictions and commoners again were required to gather the fragrant wood in great quantities. 18/ This activity, according to many authors, resulted in the practical extinction of sandalwood trees, weakened the commoners, and contributed to the decline of the native population. 19/

1850 to 1900

The trend of population decline on all islands was reversed after the Reciprocity Treaty of 1876 between the kingdom of Hawaii and the United States. As a consequence of the expanding plantation economy, population on all of the Hawaiian Islands increased rapidly, particularly from 1880 to 1930. (See Table 9 for population figures for the period from 1850 to 1896, and Table 10 for the period from 1900 to 1930.)

1900 to 1960

With the passing of the peak of plantation domination, there was a decline in population on all islands except Oahu between 1930 and 1960 (see Table 10). The expansion of the tourist industry brought slight increases on Hawaii, Maui, and Kauai. By 1960, more than 79 percent of Hawaii's residents were located on Oahu, which has less than 10 percent of the total land area. Over 45 percent of the residents of the State lived in the city of Honolulu and the adjacent urbanized area.

Population decline on islands other than Oahu was due not only to movement toward Honolulu, but also to migration from Hawaii to the mainland. The ethnic group with the highest rate of net migration (whether within Hawaii or from Hawaii to the mainland) was the part-Hawaiian group. 20/ There was also a large out-migration of the original contract laborers and their descendants. 21/

Geographic Distribution of Native Hawaiians */

> As one would expect, Hawaiian culture and population have persisted most effectively in areas where Western civilization has penetrated least. Thus census reports from 1853 to 1960 reveal that the islands and districts least suitable for plantation agriculture or other Western uses have remained the havens for native Hawaiians...22/

In 1853, large numbers of foreigners settled on Oahu and Kauai,

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*/ This section is taken, with some paraphrasing, from Andrew W. Lind, Hawaii's People, 3rd ed. (Honolulu: University of Hawaii Press, 1967), pages 45-49.

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but both islands also had their isolated districts where native culture was able to survive to a considerable degree. The expansion of plantations during the last half of the nineteenth century reduced the area within which native Hawaiians could maintain numerical and cultural dominance. The lonely islands of Niihau, Lanai, and Molokai remained relatively free of foreign influence until after annexation. By 1930, there were 17 remote districts in which native Hawaiians constituted more than 50 percent of the population.

The situation had not changed substantially by 1950, as reflected in the census reports. Although the 1960 census did not provide similar data (except for Oahu), a clearly disproportionate ratio of native Hawaiians in all of the larger census divisions where they appear indicates that the rural native havens still remained. The centers of native Hawaiian concentration were still in the underdeveloped areas of Kohalo and Kona on the island of Hawaii, of Hana on Maui, of Koolauloa on Oahu, parts of Molokai, and Niihau. However,

> More important in the total experience of the natives than the survival of a few thousand persons in these isolated pockets on the edges of the expanding Western world has been the gradual absorption of the Hawaiians in that expanding world. Each new census has told the story of a larger proportion of the natives who have been drawn within the orbit of the commercial economy centering in the port towns and cities. 23/

Honolulu emerged as the dominant center. As the century advanced, Honolulu drew a higher proportion of the total native Hawaiian population. Between 1853 and 1900 the proportion of pure Hawaiians increased from 14.5 percent to 28.1 percent. In 1950, slightly more than 40 percent of the surviving 12,000 "pure" Hawaiians lived in Honolulu.

Part-Hawaiians have been even more strikingly products of the city, as they continue to constitute a greater proportion of residents in Honolulu than is true for the total population. The 1960 census seemed to show a curious reversal of this trend, since the proportion of both full- and part-Hawaiians resident in Honolulu dropped from the 1950 total. On the other hand, the proportion of both groups resident on the island of Oahu had continued to increase steadily until 1960, which suggests that the attraction of the city still operated, but that there was a preference for the suburban and peripheral areas outside the city proper.

Paradoxically, the Hawaiian Homes Commission Act had the effect of assisting this urban trend. The demand for urban sites, particularly on Oahu, far outweighs that for agricultural sites.

1960 to 1980

Information received from the U.S. Department of Labor confirms that the majority of native Hawaiians, like the majority of all Hawaii residents, lives on the island of Oahu (see Table 11). Seventy percent of the native Hawaiian population of the six largest islands lives on Oahu, compared with 79 percent for the population as a whole. Besides Niihau (whose population is almost totally native Hawaiian), the island of Molokai has the largest native Hawaiian population, which constitutes 57.3 percent of its total.

Summary

Prior to the contact with Westerners that was to change their lifestyle, the Hawaiian population was distributed among the islands in proportion to the land mass and available food resources. The increase in trade after the arrival of foreigners upset this balance and caused a movement toward port areas. This trend has continued with the general movement of the population toward Oahu in the middle of the twentieth century. Recent years have witnessed an even greater concentration of Hawaii's population in and around Honolulu, the principal commercial and tourist center. Although there are many pockets of native Hawaiians located in economically deprived rural areas on many islands, the native Hawaiians have not been immune to the drift of the overall population toward Oahu and Honolulu, and the majority of them now live there.

D. EDUCATION

Education in pre-contact Hawaii was a formalized learning process according to social rank and function. Because there was no written language, all knowledge was carried and transmitted from generation to generation by practice, ritual, and memorization. Training in professions, such as canoe-building and fishing, was accomplished in this same manner. Similar practices were used to train the ali'i in the religious and chiefly arts to ensure their competency to rule. This system served the Hawaiians well as they developed "the finest navigators, agriculturalists, and fishermen in the Pacific" and their culture flourished for over 1,500 years. 24/

Missionaries

A written form of the Hawaiian language and Western modes of learning were first introduced in Hawaii by American missionaries after their arrival in 1820. Reflecting the Protestant emphasis on knowing and understanding the Bible, proselytizing efforts were combined with teaching the rudiments of reading and writing.

The missionaries began by teaching the ali'i, whose attitude seems to have been: "Teach us first and we will see if it is good. If it is, you may teach the people." 25/ The natives enthusiastically embraced the instruction offered by the missionaries after the chiefs agreed that schools should be set up for the maka'ainana, or common people. By 1831, the schools for commoners numbered 1,000 with a total enrollment of 52,000, or approximately two-fifths of the population. The preponderance of these students were adults. 26/ However, concerted attention was beginning to be given to instructing children by the end of 1820's and by the end of the 1830's, the majority of pupils in the schools were children, in numbers as high as 12,000 or 15,000. 27/

Kingdom Education System

In 1840, the kingdom of Hawaii took over the support of the schools, using the missionary schools as the nucleus of the new public school system. In that same year, literacy became a requirement for obtaining a marriage license.

By 1896, 84 percent of the Hawaiians and part-Hawaiians over the age of ten were considered literate--able to read and write in either Hawaiian or English. This percentage continued to improve through 1930 (see Table 12). 28/

Territory

Lind notes that the response to opportunities for formal education reflects interests and aspirations of the individual groups, especially insofar as the values of the educational system are American and Western. A sensitive indicator of the differences in attitudes towards formal education in general, and American education in particular, is the proportion of children just beyond compulsory school age who are attending school. Especially in the earlier decades of the century, because the Territory's compulsory school age was 15, school attendance on the part of children aged 16 or 17 was "chiefly a reflection of a strong educational urge on the part of the young people themselves and especially on their parents." 29/ (The present mandatory school age in Hawaii is 18.)

In this regard, Table 13 contrasts the native and immigrant populations. In 1950, 78.1 percent of native Hawaiian 16- and 17-year olds were attending school, compared to 94.1 percent for Japanese and Chinese youths of the same age. It has been suggested that this does not mean that native Hawaiians did not value education, but rather reflects a disenchantment with "Western education." 30/

In terms of higher education, the 1950 census showed that 8.8 percent of Chinese who were 25 years or older had completed a college education. This compared with 3 percent for Japanese, 2.4 percent for native Hawaiians, and 0.3 percent for Filipinos.

1970 to 1980

The 1970 Census shows some improvement for native Hawaiians over the territorial attendance figures. However, native Hawaiians still lag behind other ethnic groups in key areas (see Table 14). The percentage of native Hawaiian 14- to 17-year olds who are in school is lower than that for any other group. Native Hawaiians were behind all ethnic groups, except Filipinos, in: median years of high school completed by those over 25 (12.0, compared with a State average of 12.3 and a total U.S. average of 12.1) */; and percent of those 25 years old and over who are high school graduates. Over 50 percent of native Hawaiians age 25 and over had not graduated from high school. More recent data (for 1977) show that 46.9 percent had completed high school. 31/

The Chinese, White and native Hawaiian groups had the highest percentage of students enrolled in private schools. In 1970, 10.8 percent of native Hawaiian children attending elementary school were enrolled in private schools. The corresponding figure for high schools was 14.4 percent. Thus, the overwhelming majority of native Hawaiian children attend public schools. 32/

The deficiencies in the area of higher education are particularly striking. The native Hawaiian group lags behind all groups in the percent of the population over 25 who have completed 4 or more years of college: only 4.2 percent of the native Hawaiian group completed 4 or more years in college. The statewide average is 14.0 percent and the Whites had the highest percentage of 21.5 percent. The 1977 data of the Hawaii Health Surveillance Program show that 4.6 percent of native Hawaiians completed college, compared to 16.8 percent of Caucasians (the highest) and 7.6 percent for Filipinos. 33/

A 1976 report by Alu Like, Inc. provides further information on the educational profile of native Hawaiians. Among the report's findings are:

- Of the 224 public schools, 34 (15 percent) had enrollments that were 40 percent or more native Hawaiian.

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*/ The low figure for Filipinos, 8.7 percent, is probably due to the fact that this group was the last immigrant group to arrive in Hawaii, and many older Filipinos have received little or no formal education.

- Of the 5,000 students in those intermediate/high schools, 33 percent had been absent 20 days or more a year.

- Of the 20,000 native Hawaiian youngsters aged 12 to 17, 10 percent were not enrolled in any school.

- Of the 34,000 native Hawaiian students in public schools, approximately 12,900 (35 to 38 percent) were in the lower stanines (1-3) for SAT reading, compared with 24 percent for the State.

- Of the approximately 72,000 native Hawaiians age 25 and older, 31 percent had not finished high school (this is an improvement over the 1970 Census figure of 50.3 percent). 34/

Given these problems, it is not surprising that "educational needs are in [the] top priority for programs according to the Hawaiian population." 35/ The 1976 Alu Like Needs Assessment Survey sample that voiced this priority also indicated that parents have high aspirations for their children and feel it is important for them to finish high school. 36/ These parents also believed that schools are:

> ...not sensitive to the needs of children with a culturally Hawaiian life-style, and that Hawaiian children are in need of head-start preparation for the public schools as a way of integrating their cultural orientation with that of the vastly different orientation in the public elementary schools they will attend. 37/

Summary

Formal education in Hawaii, as it was known in the United States, 38/ began with the arrival of the missionaries in 1820. The native Hawaiians enthusiastically embraced learning to read and write. By the end of the nineteenth century, the vast majority of native Hawaiians were literate (in Hawaiian or English).

During the territorial years, however, a low attendance rate for children beyond the compulsory school age can be seen. This is probably due to the attitudes of children, and especially their parents, toward American education. In contrast, a 1976 Alu Like Needs Assessment survey indicated that education for their children was a top priority for native Hawaiian parents.

Despite these aspirations, educational problems still exist. According to the 1970 U.S. Census, native Hawaiians have the following characteristics with regard to education:

- The percentage of native Hawaiian children between the ages of 14 and 17 who are enrolled in school is lower than that for any other group in Hawaii (91.6 percent for females and 90.7 percent for males, compared to an overall State figure of 94.8 percent);

- The median number of years of school completed by native Hawaiians over 25 years of age was 12.0, compared to a State median of 12.3;

- Only 49.7 percent of native Hawaiians over 25 have graduated from high school (State data show that this figure was even less in 1977--46.9 percent); and

- Only 4.2 percent of native Hawaiians over 25 have completed 4 or more years of college, a figure lower than that for any of the immigrant groups. (The 1977 figure is 4.6 percent; still lower than any other ethnic group.)

E. EMPLOYMENT

1778 to 1850

Early censuses tell us little about the changing modes of earning a living that were brought on by the introduction of trade during the first half of the nineteenth century. Lind notes that "an increasing number of the Islanders were living on the margins of the two competing economies, deriving most of their livelihood from the cultivation of their own kuleana but also earning some money for the purchase of trade goods from the sale of farm surplus or from an occasional day of work with the government." 39/

1850 to 1900

The census of 1866 collected occupation data for the first time. Although it may not be accurate, Lind notes that it provides a rough indication and, when taken with other census data, "suggests that well over half of the natives were still living under a predominantly subsistence economy." 40/

By 1896 the sugar plantations had emerged as the major factor in the Hawaiian economy. It appears likely that well over 90 percent of the gainfully-employed were engaged in occupations associated with plantations or in other fields in commerce and trade. Nearly two-thirds of all employed persons were unskilled laborers. 41/ (See Table 15 for occupation data for the years 1866 through 1896.)

Reliance of plantations on immigrant labor became necessary when the sugar industry began to expand rapidly, especially in the 1870's. Until then, one writer states:

> Contrary to many reports, native Hawaiians did not leave the field work. As late as 1869, several plantations employed all native Hawaiian labor. By 1870, while the native population was declining, there was a tremendous expansion of sugar production from two million to 20 million pounds annually. The demand for increased production and labor had to come from outside the kingdom. This fact is demonstrated by a report in 1873; on the thirty-five plantations in existence at the time there were 3,786 employees. Of this there were 2,627 men and 364 women who were native Hawaiians. This shows that more than 80% of the labor force was native Hawaiian up to that time. 42/

However, even after the importation of immigrant laborers for plantations began in earnest, native Hawaiians continued to play a minor but important role as luna (supervisors) and skilled workers. 43/

1900 to 1960

This period saw a marked decline in the number of plantation/agricultural workers, especially since 1930. In the 1940's, one can see the important influence of the war in terms of both new employment opportunities and numbers of military personnel. Expansion of the tourist industry brought further opportunities.

Throughout the entire period since 1896, part-Hawaiians have been much less represented in the ranks of unskilled labor than full-Hawaiians. It was not until 1950, however, that full-Hawaiians were significantly over-represented in this area. 44/

Advancement in the professions is one of the "most sensitive gauges of advancing prestige on the part of the several ethnic groups." 45/ The advantage that those in the *haole* group enjoyed is evident in Table 16. The advantage that native Hawaiians, especially part-Hawaiians, enjoyed in the professions during earlier census periods largely disappeared before 1940. In 1930, there were more judges, lawyers and teachers in Honolulu who were Hawaiian and part-Hawaiian than any other group. Yet, the vast majority of native Hawaiians in Honolulu had lesser occupational roles. 46/ Chinese, on the other hand, greatly increased their representation in the professions from 1930. 47/

Native Hawaiians have always been less than proportionally represented in occupations of commerce, although part-Hawaiians have apparently made a better adjustment than pure Hawaiians. One reason for this may be that important elements in the native Hawaiian culture hampered success in business on the part of Hawaiians. Noted Hawaiian sociologist Romanzo Adams speculated on the causes of the situation in the 1930's:

> ...the old Hawaiians had no commerce and probably not even barter...The introduction of profit seeking trade by foreigners brought from the outside world certain commodities that the Hawaiians greatly desired and hence they, under the tutelage of foreigners, did gradually enter upon a commercial economy. But, so far [i.e., 1937], they have not brought their mores into full harmony with such an economy...To an old-fashion Hawaiian, the practices of the hard-boiled business man are immoral. One would be ashamed to drive a hard bargain based on another man's necessity...48/

This gap is gradually diminishing among ethnic groups, as Table 17 illustrates. Native Hawaiians, especially those of mixed ancestry, revealed special aptitude as craftsmen, including the operation and handling of machinery. 49/

1960 to 1980

Employment levels and types are closely related to educational levels. The educational problems noted above presage the employment picture for native Hawaiians. According to the 1970 U.S. Census, 4.3 percent of native Hawaiian men and 5.2 percent of native Hawaiian women in the civilian labor force were unemployed in 1970 (see Table 18). These figures compare with 2.6 percent for men and 3.7 percent for women for the State of Hawaii overall. The unemployment rate for native Hawaiian men was also higher than the average U.S. rate. The comparable figures for the United States as a whole were 3.9 percent and 5.2 percent for men and women, respectively. 50/

The unemployment rate for native Hawaiian males was significantly higher than that for the Japanese, Chinese, Filipino, and White groups. Japanese men had the lowest unemployment rate at 1.4 percent. Native Hawaiian women also had a higher unemployment rate than other ethnic groups, except for the White group.

The percent of native Hawaiian males in the labor force, 76.4 percent, was similar to that for the Chinese, Filipinos, and the average U.S. rate. It was lower than the percentage for the State as a whole, 81.5 percent, for Japanese, 79.7 percent, and for Whites, 86 percent. However, it should be noted that almost 45 percent of the White male labor force was in the armed forces.

The unemployment picture for native Hawaiians in 1975 is shown in Table 19, based on data from the 1975 Census

Update Survey by the Office of Economic Opportunity. The unemployment rate for both males and females for the six major islands was estimated at 11.6 percent, compared to 6.5 percent for the State as a whole. More recently, U.S. Department of Labor correspondence with the State indicates that the present rate is probably higher than the 1975 level, while the overall unemployment rate in Hawaii has dropped to 5.9 percent. 51/

Data for 1975 on the distribution of men in the occupational structure of Hawaii show that native Hawaiians still lag behind other ethnic groups in the percentage of their population with professional/managerial positions. Only 17.8 percent of native Hawaiians are classified as "professional-technical, managerial," compared to 33.6 percent for Caucasians, 34.3 percent for Japanese, and 50.4 percent for Chinese. On the other hand, 53.6 percent of native Hawaiians have occupations classified as "blue collar," while 42 percent of Caucasians, 42.2 percent of Japanese, and 21.2 percent of Chinese have blue collar jobs. Filipinos and Portuguese fare even worse than native Hawaiians: 16 percent of Filipinos and 17.7 percent of Portuguese are classified as professional, while 55.4 percent of Filipinos and 58.1 percent of Portuguese have blue collar jobs. Over 22 percent of native Hawaiian men have jobs in the "menial" occupational category, a higher percentage than that of any of the other five ethnic groups studied. 52/

Summary

In ancient Hawaii, the inhabitants lived in a subsistence economy, farming and fishing for just enough to satisfy their needs. The coming of the white man changed this situation and a market economy grew up alongside the natives' subsistence one.

When trading declined and large-scale agriculture took over, the economy changed again. The decline in the native population and the lack of interest on the part of the natives in toiling in the fields made the importation of immigrant laborers necessary. Many native Hawaiians continued to work as supervisors for the plantations, however.

In the early part of the twentieth century, native Hawaiians, and especially part-Hawaiians, had some advantage over other ethnic groups in the professions, particularly in the fields of law, politics, and teaching. This advantage disappeared by 1940, however. By 1950, full-Hawaiians were over-represented in the unskilled labor class. Data for 1975 show that only 17.8 percent of native Hawaiian men have professional/managerial positions, while 53.6 percent are classified as blue collar workers.

According to 1970 U.S. Census information, the employment status of native Hawaiians is as follows:

- 4.3 percent of native Hawaiian men and 5.2 percent of native Hawaiian women were unemployed, compared to State figures of 2.6 percent and 3.7 percent, respectively;
- 76.4 percent of native Hawaiian males over the age of 16 were in the labor force, compared with the State figure of 81.5 percent;
- 47.9 percent of native Hawaiian women over the age of 16 were in the labor force, compared with 49 percent for the State as a whole.

A 1975 Census Update Survey estimated that the unemployment rate for native Hawaiians was 11.6 percent, compared to 6.5 percent for the State of Hawaii as a whole.

F. INCOME

As is the case with employment figures, income levels are closely related to educational attainment. The economic advancement of native Hawaiians has been relatively slow compared with that of the major immigrant groups in Hawaii. This fact may reflect the continuation of traditional values, in which accumulation of money does not figure prominently, as Adams noted (see above, page 49). Although their median income in 1949 was slightly above that recorded for all males, the proportion of Hawaiians and part-Hawaiians in the lowest income class was notably above that of any of the major immigrant groups. Other evidence indicates that pure Hawaiians, even more disproportionately than part-Hawaiians, were represented in the lowest income levels. 53/

The 1970 Census shows that by 1969 all groups had improved their economic situation (see Table 20). The median income for Hawaiians was still below that for Chinese and Japanese, but it was higher than the median income of the "all races" group, the Caucasian group, and the Filipinos. The proportion of native Hawaiians in the lower income groups also improved. These figures may be misleading, however, as pointed out in several comments received by the Commission, 54/ since military income is included in Caucasian income, lowering the range. One writer notes that a more accurate picture can be obtained from the 1975 Census Update Survey, which shows that Hawaiian and part-Hawaiian personal income was below both the Caucasian and State-wide figures. 55/ Another source of data confirms this latter statement. The Hawaii Health Surveillance Program results show that in 1977, the median family income of civilians in Hawaii for selected ethnic groups was as follows: 56/

Pure Hawaiian	$ 9,278
Filipino	12,683
Part-Hawaiian	13,615
Caucasian	19,005
Japanese	19,431
Chinese	21,183

Poverty Level and Welfare

Statistics from the State Department of Health show that 41,483 native Hawaiians, or about 27 percent, were classified as below the poverty level in Hawaii in 1975 (see Table 21).

The number of native Hawaiians in certain welfare categories far exceeds their relative share of the population. In 1982, while native Hawaiians comprised 12 percent of the total State population, they made up 30.8 percent of those in the AFDC-UP category (see Table 22). In the general assistance category, 22.1 percent were native Hawaiians and native Hawaiians comprised 15.2 percent of the food stamps program. However, native Hawaiians comprised 10.7 percent of the medical category and thus were under-represented when compared to their population share. */

The State of Hawaii Department of Social Services and Housing notes that these figures may lead to a different conclusion than that many native Hawaiians are on welfare:

> If welfare is based upon need (i.e., in accordance with strict Federal and State guidelines),

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*/ The figures presented in this paragraph were submitted by the Hawaii State Department of Social Services and Housing. The population figures used are from the U.S. Census. If State of Hawaii population figures had been used, native Hawaiians would comprise 18.9 percent of the population and thus be under-represented in both the "food stamps" and "medical" categories.

then the data may also demonstrate a "healthy attitude" on the part of native Hawaiians toward their welfare programs. Their social concept of "shame" may not prevent the use of welfare and, therefore, we may be seeing their greater, more optimum use of welfare programs as compared to other cultures. 57/

Summary

In 1949, the proportion of native Hawaiian males in the lowest income brackets was above that for all other groups. Their median income for the same year was higher than the "all races" and Filipino groups but below that of the Chinese, Caucasian, and Japanese groups.

By 1969, the situation of the native Hawaiians had improved somewhat. They were no longer over-represented in the lowest income categories. According to U.S. Census data, their median income was higher than the "all races" group, the Caucasians, and the Filipinos, but below that for the Chinese and Japanese.

Other statistics paint a more dismal picture, however:

- According to the 1975 Census Update Survey and Hawaii State data, native Hawaiian income levels were still below the Caucasian figures, contrary to the U.S. Census information; 58/
- In 1975, over one-fourth (27 percent) of native Hawaiians were classified as below the poverty level; and
- In 1982, the percentage of native Hawaiians on welfare (AFDC and general assistance) was significantly higher than their relative share of the population.

G. CRIMINAL JUSTICE */

Hawaii ranks thirty-ninth among the fifty States and the District of Columbia in terms of population. However, Hawaii is ranked sixth among the States and the District of Columbia on the total crime index. Breaking the crime index down by type, Hawaii is ranked thirty-ninth for violent crime (the same as its population rank), and fifth for non-violent crime.

Ethnic Stock of Adult Arrestees

Table 23 shows the ethnic stock of persons arrested in Hawaii in 1981 compared to each ethnic group's percentage share of the population. The percentage of arrestees who were Hawaiian or part-Hawaiian was 23 percent, almost double their share of the population (12 percent, according to the 1980 U.S. Census). "Negroes" comprised 4.1 percent of those arrested, more than double their share of the population (1.8 percent). Other ethnic groups whose proportion of arrests was greater than their share of the population were: Caucasian--35.3 percent (33 percent of population); and the "other" group--11.9 percent (5 percent of population).

Comments received by the Commission on its Draft Report 59/ cast some doubt on the validity of these figures. Specifically, "the ethnic definitions used in the numerators [of Tables 23 and 25] seem to differ significantly from those used in the denominators." 60/ The result of using these figures is "a serious exaggeration of [native] Hawaiian crime rates." 61/ Using the

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*/ All the information in this section is taken from State of Hawaii, Hawaii Criminal Justice Information Data Center, Crime in Hawaii 1981; A Review of Uniform Crime Reports (April 1981).

population figures of the Hawaii Health Surveillance Program (which are used in this Report in Table 6), instead of the 1980 U.S. Census data (see Table 5) used by the Hawaii Criminal Justice Center, would yield significantly different results. The Health Surveillance Program tabulation (see Table 24) indicates that native Hawaiians constitute 18.9 percent of Hawaii's population (instead of 12 percent) and therefore the proportion of arrestees (23 percent) would not be double (although still greater than) native Hawaiians' share of the population. Both tabulations are presented here because, for whatever reason, the Hawaii Criminal Justice Information Data Center chose to use U.S. Census population figures in Tables 23 and 25. In a footnote to the table the Center states: "Population figures from State of Hawaii, Department of Planning and Economic Development. By self-identification or race of mother. Data are not comparable to Health Surveillance Program tabulations used in previous years' reports." 62/

Table 25 shows the race of those arrested for specific crimes in Hawaii in 1981. For all crimes listed in the table except gambling, the race of those arrested was most often White, and the second most numerous group of arrestees was Hawaiian/part-Hawaiian in all cases except manslaughter. The number of Hawaiians/part-Hawaiians arrested for each crime was greater than their relative share of the population (12 percent, in this study), except for manslaughter and gambling. 63/ Of those arrested for robbery and burglary, 24.5 percent and 27.3 percent were Hawaiian or part-Hawaiian. The White group percentages also exceeded their population share (33 percent), although not in as many categories.

A study on incarceration was written by University of Hawaii sociologist Jean Kassebaum. She found that nearly 60 percent of the prison population in Hawaii is Hawaiian or part-Hawaiian. 64/

Race of Juveniles Arrested

Educational difficulties of native Hawaiian youths are reflected in criminal justice statistics. According to State of Hawaii statistics, native Hawaiian youths comprised the largest percentage of arrestees for each crime appearing in Table 26. Almost 53 percent of juveniles arrested for motor vehicle theft were native Hawaiian. More than 44 percent of runaways were native Hawaiian, and more than 42 percent of juveniles arrested for burglary were native Hawaiian.

Summary

The percent of native Hawaiian adults arrested in Hawaii in 1981 was greater than the native Hawaiian percentage share of the population. The percentage of native Hawaiians arrested for specific crimes was also, in many crime categories, larger than their share of the population.

The picture for native Hawaiian juveniles arrested in 1981 was even more striking. Native Hawaiian juveniles comprised the largest percent of those arrested for each crime examined.

H. HEALTH 65/

Birth and Death Rates

Evidence compiled by population experts indicates that there were "widespread and prolonged low birth rates [in Hawaii in the nineteenth century] due to venereal disease." 66/ The birth rate in Hawaii increased from 21.3 in the 1848 to 1859 period to 23.6 in the 1880 to 1889 period, while the death rate declined from 45.8 to 25.3 in the same interval.

From 1910 to 1965, the birth rate went from 31.3 to 27.3, while the death rate continued its decline from 16.3 to 5.5 (see Table 27). Since the figures on birth and death rates that appear in Table 27 refer to all residents in Hawaii (not just native Hawaiians) it will be helpful to keep in mind the composition of the population during the time covered in the table (1848 through 1965). 67/ The birth and death rates from the period of 1848 to 1884 occurred during a decline in the proportion of full-Hawaiians from greater than 95 percent of the population to less than 50 percent, and a further decline to less than two percent in 1965 (concommitant with a decline in the overall death rate). At the same time, there was a gradual increase in the part-Hawaiian population from less than two percent in 1848 to about 15 percent in 1965.

The death rate for the State of Hawaii did not decrease much from 1965--the death rate in 1980 was 5.0, compared to 5.5 in 1965. 68/ The birth rate declined from 27.3 in 1965 to 18.6 in 1980 for the State population as a whole. 69/

Infant Mortality

Extraordinary improvement in the overall infant mortality rate in Hawaii occurred during this century--from 119 deaths per 1,000 births in 1924 to 10 deaths per 1,000 by 1980. Throughout most of this period, however, Hawaiians and part-Hawaiians continued to display mortality rates higher than the average. For example, in 1970 full-Hawaiians had an infant mortality rate of 65, compared to 22 for part-Hawaiians, and 19 for the State as a whole (see Table 28).

Only the accompanying high birth rates among native Hawaiians off-set infant mortality and permitted the population to increase. These high birth rates also created an age distribution that was heavily weighted toward a young population; a trend that continues today (see above, page 41).

The high infant death rates for Hawaiians and part-Hawaiians compared to other ethnic groups in Hawaii continues. According to the Hawaii State Department of Health: "The infant death rate of part-Hawaiians was significantly higher during the five-year period of 1977-1981 than that of Caucasians, Chinese, Filipino and Japanese. The confidence limits on the small races were so broad that their rates for that period cannot be considered significantly different from any of the larger racial groups." 70/ Table 29 shows that the infant death rate for part-Hawaiians during this period was 13.8, compared to 8.9 for Caucasians, 7.0 for Chinese, 9.2 for Filipinos, 8.8 for Japanese, and 10.5 for the "all races" group.

Table 30 presents comparative figures for characteristics of births in Hawaii in 1980. Part-Hawaiians have a relatively high birth rate--higher than full-Hawaiians, which foreshadows the trend already indicated for an increasing part-Hawaiian population. Full- and part-Hawaiians have a similar male/female birth ratio. Part- and full-Hawaiian infants have low birth weights 7.4 percent of the time, compared to 11.8 percent for Japanese and 9.3 percent for the Filipino group. Part-Hawaiians, followed by full-Hawaiians, have an extremely high ratio of illegitimate births.

Life Expectancy

Life expectancy patterns for the nineteenth century in Hawaii are not available. However, by 1910 enough reliable data had been collected to make this kind of statistical extrapolation possible. These projections reveal that native Hawaiians exhibited a significantly lower life expectancy throughout the period from 1910 through 1970 than any other ethnic group in Hawaii. In 1970, the life expectancy for native Hawaiians was 67.62 years, compared to 77.44 for Japanese (the highest of all groups) and 74.20 years for all groups (see Table 31).

Leading Causes of Death

Table 32 shows the leading causes of death for the State of Hawaii population as a whole from 1920 to 1980. 71/ Most notable of those causes that are growing in importance as the century progresses are heart disease (although it declined in importance from 1960 to 1980) and cancer.

There is considerable variation in the proportion of persons dying of various causes in the different races of Hawaii. Table 33 shows the "crude" mortality rates by race for the ten leading causes of death in Hawaii for 1980. 72/ The death rate (based on estimated population per 100,000) for diseases of the heart was 163 for Caucasians compared to 62 for Hawaiians (the lowest of the five ethnic groups compared). The rate for cancer was: 138 for Japanese, 130 for Caucasians, 123 for Chinese, 113 for native Hawaiians, and 85 for Filipinos.

In February 1982, the Hawaii State Department of Health published a study by Mele A. Look, on the mortality of the Hawaiian people. 73/ Look, who is a student at the University of Hawaii, compared the mortality rates of full-Hawaiians, part-Hawaiians, and an "all races" group (the sum of all other ethnic groups in the State of Hawaii) for the years from 1910 to 1980.

Look's study reports the following findings (see also, Chart 5):

Overall mortality rates:

- For each period studied, the major causes of death were the same for all three groups;
- Overall mortality rates have been continuously declining for all three groups;
- The "all races" group has the lowest rates overall; part-Hawaiians had rates similar to the "all races" group in many cases;
- Rates for full-Hawaiians have been declining but remain at a consistently higher level.

Causes of death now on a downward trend:

- Pneumonia, non-rheumatic endocarditis and myocardial degeneration, and infective and parasitic diseases, such as tuberculosis--full-Hawaiians' mortality rates for these diseases were two to five times higher than the "all races" group and as much as four times higher than the part-Hawaiians' mortality rates.

Causes of death on an upward trend:

- Heart disease--mortality rates were generally higher for full- and part-Hawaiians except in 1910, 1920 and 1960, when rates for part-Hawaiians were not significantly different from the "all races" group; full-Hawaiians' heart disease mortality rates were consistently greater than the other groups;
- Cancer--the part-Hawaiian and "all races" groups' mortality rates were at similar levels, differing significantly only in 1930 and 1970; full-Hawaiians have a mortality rate of one to two times higher than both of the other groups;

- Accidents--death rates did not differ significantly between part-Hawaiians and the "all races" group, but full-Hawaiians' rates were two times higher; this may be due to type of occupation.

Probable factors 74/ that may be associated with high mortality rates of full-Hawaiians:

- Income level;
- Inadequate understanding of Western health care and a formal education;
- High content of salt in Hawaiian foods;
- Cultural concepts of health and illness that may affect self-diagnosis and willingness to seek treatment;
- Genetic factors; the ability to resist diseases may be associated with ethnicity.

Incidence of Cancer 75/

Cancer is the second leading cause of death in Hawaii and during 1980, there were 2,769 new cases of cancer diagnosed. The incidence of cancer varies markedly in the various racial groups in the State. Table 34 compares the "age standardized" incidence rates of selected cancers for five groups (Caucasian, Chinese, Filipino, native Hawaiian, and Japanese) for the period 1973 through 1980. Since the incidence varies by age, the rates are "standardized" to show what the rates in the various racial groups would be, if all groups had the same age composition. The table shows that of the five ethnic groups, native Hawaiian men had by far the highest incidence of stomach and lung cancer. They had the second highest incidence of prostate cancer, after Caucasian men. For women, the incidence of cancer of the lung and breast was highest for native Hawaiians. Native Hawaiian women were second to Caucasian women in the incidence of cancer of the cervix.

Acute and Chronic Conditions 76/

The State of Hawaii collects data on the presence and prevalence of acute and chronic conditions. As seen in Table 35, the Hawaiian and part-Hawaiian group reports the highest overall level of acute conditions among the major ethnic groups in Hawaii. They have particularly high rates for respiratory conditions.

The Hawaiian and part-Hawaiian group fares better when compared to other ethnic groups on the prevalence of chronic conditions (see Table 36). Of the twenty chronic conditions reported, the native Hawaiian group scored highest in only one (not counting the "other" group), asthma with or without hayfever. The Hawaiian group reported the second highest prevalence in two categories: mental and nervous condition and bronchitis/emphysema. The Hawaiian group also reported the lowest prevalence of malignant neoplasms (cancer).

A few cautionary notes should be added to this discussion. As reported in the mortality study above, combining full- and part-Hawaiians may be misleading, given the significantly higher mortality rate of full-Hawaiians for some of these diseases. The method of collecting the data must also be considered. The data in these tables was gathered by the Hawaii Health Surveillance Program via a statewide household survey. During 1980, 14,407 persons were interviewed to obtain these statistics. Those excluded from the sample were:

persons living in military barracks, nursing or rest homes, prisons, dormitories, the island of Niihau, and Kalaupapa Settlement. 77/

Other information received by the Commission 78/ confirms that full- and part-Hawaiians do indeed have health problems in some areas. Data prepared by the Hawaii Department of Health for Alu Like, Inc., shows that full- and part-Hawaiians reported higher prevalences, compared to all races, for the following conditions:

Condition	Full-Hawaiians	All Races
High blood pressure	22.6%	12.2%
Diabetes	14.4	5.3
Arthritis	8.3	5.6
Heart trouble	4.2	2.8
Stroke	1.4	0.7

Condition	Part-Hawaiians	All Races
Asthma	17.2%	8.5
Chronic bronchitis	3.8	1.7

Substance Abuse

An assessment of the needs in Hawaii for alcohol and drug abuse prevention was recently made by the Alcohol and Drug Abuse Branch of the Hawaii State Health Department. The assessment is based on data from the 1979 State Substance Abuse Survey. To compile this information, face-to-face interviews were conducted with persons 12 years of age and older in 3,127 households throughout the State. 79/ In evaluating the data, the report warns that:

> It should be noted that all quoted numbers of the alcohol and drug abuse populations are likely to be severe under-estimates. Federal studies have demonstrated that self-reported alcohol use is underreported by nearly 50 percent. This phenomenon is likely to be even greater for the usage of illegal substances such as marijuana or cocaine...80/

Despite this problem and the fact that the information is now four years old, the report is "the most comprehensive and detailed look at Hawaii's alcohol and drug abuse problems to date." 81/

The report divides substance abusers into three categories: alcohol abusers, drug abusers, and abusers of both alcohol and drugs. Combining all three, there were approximately 103,748 persons in Hawaii in 1979 who were currently substance abusers. This number accounts for 14.7 percent of Hawaii's population 12 years of age and older. 82/ The following sections discuss abuse and treatment in each of the categories, across ethnic groups in Hawaii.

Alcohol Use and Abuse

Alcohol use is less prevalent in Hawaii than it is on the U.S. mainland. In Hawaii, 79.2 percent of the population has tried alcohol at least once in their lives. This compares to 90 percent on the mainland. In terms of current alcohol users, 55.1 percent of Hawaii's population currently uses alcohol, compared to 61 percent of the mainland population. Current alcohol use is also significantly lower for Hawaii in each age category, compared to similar mainland age categories. 83/

Table 37 summarizes the lifetime and current use of alcohol in Hawaii for the various ethnic groups. The group with the highest percentage of current users is the Caucasian group (77.7 percent), followed by the Hawaiian/part-Hawaiian (52.8) and Portuguese (52.6) groups. State-wide, 55.1 percent of the population are current users.

Approximately 7.6 percent of Hawaii's general population reported the average daily consumption of two or more ounces of pure ethanol per day */ and were thus classified as alcohol abusers. 84/ The comparison of alcohol abusers by ethnic group is shown in Table 38. Relative to their population sizes, Caucasians (40.6 percent of alcohol abusers) and Hawaiians/part-Hawaiians (19.4 percent) constitute the groups most at risk for alcohol abuse.

Table 38 also shows ethnic breakdowns of those alcohol abusers who have received treatment. The needs assessment reports that all demographic groups are "dramatically underserved." The unduplicated treatment admission count for fiscal year 1979-1980 represented only 2.8 percent of the estimated alcohol abusers in need of services. 85/ Comparing their percentage in treatment to their percentage of the alcohol abusing population, the Filipinos, Chinese, Japanese, Hawaiian/part-Hawaiian, and "other" ethnic category groups were especially underserved. Caucasians, on the other hand, were overserved.

Drug Use and Abuse

Compared to the U.S. mainland, the 1979 State Survey revealed the following drug use trends in Hawaii:

- Hawaii has a significantly greater percentage of persons who have used cocaine, hallucinogens, and heroin than the mainland.
- The current use of cocaine is significantly greater in Hawaii than on the mainland. 86/

Ethnic trends for drug use in Hawaii are also summarized:

- Over forty percent of both Caucasians (43.2 percent) and Hawaiians/part-Hawaiians (40.2 percent) have tried marijuana.
- Nearly one out of four Caucasians (22.7 percent) have tried cocaine, while fifteen percent of the Hawaiians/part-Hawaiians have tried it.
- One out of ten Caucasians (10 percent) and thirteen percent of Hawaiians/part-Hawaiians (13.4 percent) have tried inhalants.
- One out of five Caucasians (19.9 percent) and nearly twelve percent (11.8 percent) of Hawaiians/part-Hawaiians have tried hallucinogens.
- Nearly one out of twenty Caucasians (4.6 percent) and Hawaiians/part-Hawaiians (4.9 percent) have tried heroin at least once in their lives.
- Caucasians have the greatest percentages of lifetime use for all non-medical psychotherapeutic drugs, with the exception of the non-medical use of tranquilizers among Portuguese (14.7 percent).
- Nearly one out of ten Caucasians (9.5 percent) and one out of twenty Hawaiians and part-Hawaiians (4.9 percent) and Portuguese (4.5 percent) report current cocaine use.

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*/ Roughly equivalent to four beers or four wines or 3.5 hard-liquor drinks in the Hawaii Department of Health Study (p. 6).

- Approximately one out of five Caucasians (21 percent) and Hawaiians/part-Hawaiians (20.9 percent) are current marijuana users. 87/

Approximately 5.3 percent of Hawaii's general population age 12 and over are drug abusers. 88/ Of these drug abusers, 49.1 percent are Caucasian and 22.3 percent are Hawaiian or part-Hawaiian. As with alcohol abuse, Caucasians and Hawaiians/part-Hawaiians are the groups most at risk for a drug abuse problem, relative to their respective population sizes. (See Table 39 for the ethnic composition of Hawaii's drug-abusing population.)

Table 39 also shows, by ethnic group, the drug abusing population that is receiving treatment. Overall, all drug abusers are underserved since only 1.8 percent of the drug abusers in need of services were in treatment in fiscal year 1979-80. 89/ Comparing their percentage in treatment with their percentage in the drug-abusing population, Caucasians were underserved, while Hawaiians and part-Hawaiians were overserved.

Alcohol and Drug Abuse

Of the 12,163 persons (1.7 percent of Hawaii's general population) who abuse both alcohol and drugs, 49 percent are Caucasians, and 22.8 percent are Hawaiian or part-Hawaiian. Relative to their population size, Caucasians, Hawaiians/part-Hawaiians, and Portuguese are most at risk for an alcohol/drug-abuse problem. 90/ (See Table 40.)

Summary

Birth rates in Hawaii were low in the nineteenth century. The fertility rate could not keep pace with the episodic arrival of epidemics and disease. In 1980, Hawaii's death rate was 5.0, down a little from the 1960-1965 figure of 5.5. The birth rate for the State decreased from 27.3 in 1965 to 18.6 in 1980.

Infant mortality has remained higher for native Hawaiians than for the other groups in Hawaii in the twentieth century, even though it has been steadily declining. In 1963, the infant mortality rate for Hawaiians was 38 and that for part-Hawaiians was 25. The infant death rate of part-Hawaiians remains significantly higher than that of Caucasians, Chinese, Filipinos, and Japanese.

Other statistics show that part-Hawaiians have a birth rate of 23.1, compared to 17.5 for full-Hawaiians and 19.5 for the State. Part-Hawaiians and full-Hawaiians also have a significantly higher rate of illegitimate births than the other ethnic groups.

Native Hawaiians have historically had a lower life expectancy than other groups in Hawaii. This trend continues--in 1970, the native Hawaiian life expectancy was 67.62 years, compared with a total for the State of 74.20 years.

A study published by the State of Hawaii Department of Health examined mortality rates among full-Hawaiians, part-Hawaiians, and all other races in Hawaii from 1910 to 1980. The study concluded that:

- Part-Hawaiians' mortality rates for heart disease were generally higher than the "all races" group except for some years;

- Full-Hawaiians' mortality rates for heart disease were consistently higher than those for either of the other groups;

- Part-Hawaiians and the "all races" group had similar mortality rates for cancer, while the rate for full-Hawaiians was much higher than that for either of the other groups; and

- The mortality rate for accidents did not differ for part-Hawaiians and the "all races" group, but it was two times higher for the full-Hawaiian group.

Statistics from the Hawaii Tumor Registry show that native Hawaiian men had the highest incidence of stomach and lung cancer for the period from 1973 through 1980, compared to Caucasian, Chinese, Filipino, and Japanese. Native Hawaiian women, compared to these same ethnic groups, had the highest incidence of lung and breast cancer.

The Hawaiian and part-Hawaiian group reports the highest prevalence among ethnic groups of "acute conditions," especially respiratory conditions. For chronic conditions, the prevalence for the native Hawaiians relative to the other groups is high only for asthma, mental and nervous conditions, and bronchitis/emphysema. According to this data, native Hawaiians report the lowest prevalence of cancer (as opposed to incidence), compared to other groups.

For the purposes of the Hawaii State Substance Abuse Survey, Hawaiians and part-Hawaiians accounted for 15.8 percent of the general population of Hawaii. With this number as a comparison, the following data summarizes the findings of the Hawaii substance abuse needs survey:

- Of the total number of estimated substance abusers in Hawaii (103,748 or 14.7 percent of Hawaii's general population), 20.9 percent were Hawaiian or part-Hawaiian.

- Alcohol abusers in Hawaii tend to be older (26 years and above), male, either Caucasian or Hawaiian/part-Hawaiian, married, employed, have more than a high school education, and live in East Honolulu or Central Oahu.

- Hawaiians and part-Hawaiians account for 19.4 percent of alcohol abusers, and only two percent of this group receives treatment.

- Drug abusers tend to be younger (under 26), equally male or female, Caucasian or Hawaiian/part-Hawaiian, single, employed, have more than a high school education, and reside in East Honolulu or Central Oahu.

- Of the total estimated number of drug abusers, 22.3 percent are Hawaiian or part-Hawaiian, and only 3.6 percent of this group receives treatment.

- Abusers of both drugs and alcohol tend to be predominantly male, Caucasian or Hawaiian/part-Hawaiian, equally young or old (26 and over), single, employed, have more than a high school education, and live in East Honolulu or Central Oahu or Maui.

- Hawaiians and part-Hawaiians account for 22.8 percent of the alcohol and drug-abuse population. 11/

I. SOCIO-POLITICAL PROFILE

Inter-marriage

In Hawaii, interracial marriage is recognized in law, and there is no public opposition to it. Although there may be personal and family sentiment against interracial marriage, this is not overriding. As Romanzo Adams notes:

> If antagonistic sentiment prevails in some group of less influence and if its members feel free to give expression to such antagonistic sentiment only within the intimate group of like-minded and under conditions that more or less imply that it is confidential, such sentiment may be important in some ways but it is not public sentiment. In Hawaii a man or woman is free to marry out of his or her race so far as public sentiment is concerned. 92/

Adams feels that the large number of interracial marriages in Hawaii is a consequence of this freedom. 93/

Interracial marriage became an acceptable phenomenon in Hawaii very quickly after the arrival of foreigners. There were many factors contributing to this acceptance. First, the Hawaiian family system at the time was not rigidly organized. There was much freedom in interpersonal and sexual relations, except for the ali'i. Little or no ceremony was associated with either marriage or divorce. Marriage to one partner did not prevent marriage to another at the same time. The practice of giving away children to friends or relatives to raise (hanai) further increased the freedom of women. Adams concluded that:

> The freedom of the Hawaiians in relation to marriage was an important factor in the early interracial marriage. Had there been a strictly organized and regulated system among the Hawaiians it would have operated to prevent marriage with foreigners because the foreigners who came to Hawaii could not readily conform to the requirement of such regulations. 94/

Other factors also contributed to this phenomenon. Since Hawaiians had had no contact with outside groups, they were free of an antagonistic bias against them or against marrying them. At first, most interracial marriages were between native women and foreign men. The explanation for this is obvious: the white men who arrived as traders brought no women. Later, when immigrant laborers began to arrive, only the Portuguese required that women accompany the men. Thus, there were disproportionate numbers of males over females for ethnic groups such as the Japanese, Chinese and Filipinos.

Another factor to be considered in this connection was the rapidly declining population of native Hawaiians throughout the nineteenth century. Kings, chiefs, and missionaries alike were concerned, and the government of the kingdom consciously searched for cognate racial groups to strengthen the Hawaiian stock. Intermarriage was not only accepted, for native Hawaiians it was necessary to save the race. Chart 6 confirms this fact, showing as it does the steadily declining full-Hawaiian population and the rapid increase in the part-Hawaiian population after 1920.

Table 41 shows the percent of marriages for each ethnic group that involved a partner of another ethnic group for the period from 1912 to 1981. The high percentage of such "out-marriages" for native Hawaiians is evident throughout the interval covered by the table.

World War II, with the attendant increase in military personnel, had an important effect on race relations in Hawaii. The large influx of white males brought a form of racial prejudice to Hawaii that had not been prevalent before. Nevertheless, there was an increase in out-marriages, especially of Caucasian males and non-Caucasian females. 95/

The result of this extensive interracial marriage has been the creation of a population of considerable racial and cultural diversity. The extent of racial harmony among groups throughout history is a matter of some dispute. Based on his studies, Adams wrote that:

> ...there is, in Hawaii, an uncommon degree of freedom in relation to interracial marriage and that this freedom is the consequence of the special practices, doctrines and sentiments relating to race that have come out of the historic conditions. The historic situation has favored the development of the mores of racial equality. Because there is no denial of political rights and economic or educational privilege on grounds of race, because racial equality is symbolized, the social code permits of marriage across race lines. 96/

The Commission received comments 97/ on the issue of racism in Hawaii that do not coincide with the conclusion of sociologist Romanzo Adams that: "The historic situation has favored the development of the mores of racial equality." 98/ Even though race relations do not seem to be the idyll painted by some authors, racial tensions in Hawaii do not seem to be all-pervasive. One writer states, for example, that "while there were many times in the past [that is, in the 1800's] when native Hawaiians felt the pangs of racism, for the most part racism was kept beneath the surface and remained latent." 99/ Later on during the Republic of Hawaii (1894-1900), property qualifications and other restrictions for voters would openly discriminate against poor native Hawaiians and all Asiatics in Hawaii (see following section).

Race relations in Hawaii did, however, reach dangerously low levels in the early 1930's with the Massie rape case, which was cited in at least one comment received by the Commission. 100/ In 1931, Mrs. Massie, the wife of a young Navy lieutenant, was attacked and allegedly raped by five "dark-skinned youths" near Waikiki. 101/ A racially-mixed jury was unable to reach a verdict on her alleged assailants and: "A private report from the Pinkerton Detective Agency to Governor Judd showed subsequently that the woman's story was full of contradictions and that in the opinion of the consultants, an acquittal was absolutely justified." 102/ The U.S. Navy did not agree and the "Commandant of the Fourteenth Naval District sent scorching wires to the Secretary of the Navy denouncing the administration of justice in Hawaii." 103/ Meanwhile, Mrs. Massie's husband and mother kidnapped one of the accused, a native Hawaiian, and killed him. This time, the jury convicted them. After much agitation on the U.S. mainland and by the military in Hawaii, however, the Governor commuted the 10-year prison sentences of Mrs. Massie's husband and mother to one hour.

The uproar caused by this case was accompanied by "hysterical" Navy reports stating that the enforcement of the law in Hawaii was lax and inefficient and described "dark gangs of prowlers, lusting after white women, Japanese annoyances directed at Navy personnel, and riots caused by fighting between natives and Orientals against whites." 104/ As a result, there was strong pressure by the Navy to strip Hawaii of its territorial status, and bills were introduced in Congress to create a commission government in Hawaii in which the Army and Navy would have a voice. None of these bills was passed, but the residents of Hawaii became aware for the first time of their tenuous position as a U.S. territory.

Political Participation

The Monarchy

The evolution of native Hawaiian society from birth-determined chiefs to constitutional monarchy in the 1840's permitted limited political participation by all of the people for the first time. Although mana (the degree of sacred power and rank) was supplanted by hereditary succession to the throne in 1819, it was not until the Constitution of 1840 that any fundamental changes in the traditional patterns of governance occurred.

The Constitution of 1840 created a two-house legislature based on the British Parliamentary model. The House of Nobles was to be appointed by the king and duplicated the pre-contact Council of Chiefs. The House of Representatives was to be elected from and by adult males who were citizens of the kingdom. (For a more complete description of the Constitution, see below page 158.)

The notion of male suffrage, like the House of Representatives itself, was a Western concept. Women of high royal rank were included in the House of Nobles, but precluded from the democratically-inspired electoral process. In addition, the position of kuhina nui, or premier, became a male function for the first time, after twenty years of hereditary succession by the highest-ranking woman.

As early as the reign of Kamehameha IV (1854-1863), however, there were attempts to change the constitution. The king, and his brother who would succeed him, believed the existing constitution was too far in advance of the needs of the people. The king wanted to centralize more power to the monarch and to limit suffrage.

Both of these goals were accomplished by Kamehameha V (1863-1872) when he abrogated the old constitution and proclaimed a new one in 1864. Universal manhood suffrage was abolished. Property qualifications were instituted for the members of the House of Representatives and property and educational qualifications were instituted for voters. Although Lunalilo, Kamehameha V's successor, successfully petitioned the legislature to repeal the property qualification for voters, education requirements remained.

The Republic of Hawaii

Preparations for establishing the Republic of Hawaii in 1894 placed new restrictions on voters. The first step in adopting a constitution for the Republic was to elect the delegates to a constitutional convention. All voters were required to sign an oath that stated, in part, "...I will support and bear true allegiance to the Provisional Government of the Hawaiian Islands, and will oppose any attempt to reestablish monarchical government in any form in the Hawaiian Islands." 105/ This requirement had the intended effect of disenfranchising almost all the native Hawaiian voters. Another, unexpected effect, however, was the disenfranchisement of many Americans who were afraid that by signing the oath, they would lose their U.S. citizenship. 106/ The result of this disenfranchisement was striking: in 1890 there had been 13,593 registered electors; for the election of delegates to the constitutional convention, there were only 4,477. 107/

The constitutional convention, made up of eighteen elected delegates and nineteen members of the Provisional Government (to ensure "success" of those in favor of a Republic) agreed on a constitution that "was satisfactory to all but the most extreme oligarchs." 108/ Property qualifications were instituted for both voters and members of the legislature. Candidates for the Senate, or upper house, were required to have an income of $1,200 or to own $3,000 in property. Candidates for the lower house, the House of Representatives, had to have an income of $600 or own property worth $1,000. 109/ Requirements for voters were:

80

- An oath pledging the voter would not aid in any attempted restoration of the monarchy;

- The ability to read, write, and speak either Hawaiian or English;

- To vote for Senators, the voter was required to have $1,500 above all incumbrances, or personal property worth $3,000, or an income of $600 (in all cases, all taxes must have been paid). There were no property qualifications required to vote for members of the House of Representatives. 110/

Another issue the Republic's constitution had to resolve was the question of citizenship. This issue was "rather skillfully" 111/ handled to ensure exclusion of all Orientals from the franchise. The constitution stated that all persons born or naturalized in Hawaii were citizens. In addition, the Minister of Interior could grant citizenship to foreigners who had fought for the Provisional Government, without prejudicing the foreigner's native allegiance (an action that would prove to be controversial). 112/ For others, in order to be naturalized a person must have come from a country that had a naturalization treaty with Hawaii (Japan and China did not) and, "as an extra precaution," should be able to speak, read, and write English. 113/

The obvious result of these provisions was to disenfranchise many voters. One historian notes, however, that registration for the first legislative election (although far below pre-Republic levels) showed "great improvement" over the number of voters who had registered for election of delegates to the constitutional convention. 114/ On Oahu, 1,917 voters registered, of whom there were 509 native Hawaiians, 466 Americans, 274 from England and its colonies, 175 Germans, 362 Portuguese, and 131 others. 115/

Territory and State

After annexation to the United States and passage of the implementing legislation (the Organic Act) in 1900, the situation changed dramatically. Broad male suffrage was restored in Hawaii for the first time since 1864. All citizens of the Republic automatically became citizens of the Territory of Hawaii and there were no property qualifications for voters or for candidates. Because Oriental immigrants were still excluded from voting due to the definition of citizenship, native Hawaiians could command an absolute majority at the polls. 116/

Royal presence in this new political pattern, especially in partisan party politics, was assured when Prince David Kawananakoa became one of the charter members of the new Hawaii Democratic Party and his younger brother, Prince Jonah Kuhio Kalanianaole, occupied a similar position in the new Hawaii Republican Party. In this way, it was believed that the royal family could maintain a dominant role in island government. Prince Kuhio, for example, served as the Territory's delegate to Congress from 1904 until his death in 1921. The delegate's position, although non-voting in the national legislature, was the highest elective office for which any voters could cast ballots. As a Territory, Hawaii could not vote for the U.S. president or vice president, it had only the one non-voting slot in the U.S. House of Representatives, and its governor and secretary were appointed by the President of the United States.

From 1902 until 1940, the Territory identified voters by "race." Although native Hawaiians were a numerical minority within the total population, as noted above the exclusion of Asian immigrants who had retained a non-American nationality left native Hawaiians as the dominant ethnic block until just prior to World War II. According to one author: "In every election, Hawaiians and part-Hawaiians comprised more than half of the candidates for office. The Hawaiian voter turnout was always substantially higher than that for other groups..." 117/ Table 42 shows the ethnic makeup of registered voters in Hawaii from 1902 to 1940.

The possibility of race-oriented voting patterns has always been present in Hawaii for one group or another. In numerical terms, once native Hawaiians lost the absolute majority of the electorate in 1925, no other ethnic group has ever had the voter strength to win a territorial or statewide election by itself. Writers disagree, however, on the degree to which racial prejudice affects voting trends in Hawaii. Andrew Lind, writing in 1967, states that:

> ...even in a local election district, where a majority of the voters might be of the candidate's own ethnic group, publicly to solicit support on a racial basis would under Hawaiian conditions be tantamount to committing political suicide. The candidate would draw to himself the wrath of all the other ethnic groups as well as the hostility of the members of his own group in the opposition party. 118/

Others, including some Hawaiians who commented on the Commission's Draft Report, 119/ strongly disagree with this benign assessment. Lawrence Fuchs writes that: "In Hawaii, where the tradition of racial aloha and actual widespread intermarriage often prevented overt expressions of racial prejudice, ethnic tensions frequently found their way into the voting booth." 120/ To support this, Fuchs reports that interviews with more than three-quarters of the defeated candidates in the 1958 primaries revealed that:

- The overwhelming majority of these men and women attributed their loss to the racial prejudice or pride of other groups constituting a majority of voters in their districts.

- Defeated Chinese, haole, and Hawaiian Democrats often blamed Japanese voters for plunking for their own kind.

- Republican Japanese primary losers complained they could not win haole votes and native Hawaiian Republicans also complained of haole domination of the party. 121/

Fuchs also studied key ethnic precincts and the results of voter surveys. He reports that these results revealed that:

- All major ethnic groups tended to favor their own kind, but that Japanese plunking was far less decisive than frequently claimed, and that other groups--the Chinese, haole, Portuguese, and Hawaiians--plunked at least as extensively as the Japanese.

- Ethnic tensions could readily be inferred from election results in key precincts--candidates did well in those precincts dominated by their own ethnic group.

- Strong candidates often did well among all groups, but always best with their own. Weak candidates limped badly everywhere, but showed least weakness among their own kind. 122/

Fuchs does not think that these manifestations of ethnic politics, however, are aberrations in the American political system. Rather, he says that "ethnic claims in politics, far from being un-American, followed the typical American pattern." 123/ Unlike Lind, however, he concludes that ethnic factors play a "significant role" (at least in that election) in Hawaiian politics. 124/

Creation of the Office of Hawaiian Affairs

A separate identification and unique political participation for native Hawaiians was ratified by a majority of the total State electorate in 1978 when key amendments to the State Constitution established the Office of Hawaiian Affairs (OHA). By the terms of the new Article XII:

> ...Section 5. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians. There shall be a board of trustees for the Office of Hawaiian Affairs elected by qualified voters who are Hawaiians, as provided by law. The board members shall be Hawaiians. There shall be not less than nine members of the board of trustees; provided that each of the following islands have one representative: Oahu, Kauai, Maui, Molokai, and Hawaii. The board shall select a chairperson from its members...

83

The first OHA election in 1980 was supported by an 80 percent turnout among the more than 55,000 native Hawaiians who had registered to vote in this separate election (see Table 43). More than 100 candidates sought the nine positions on the board of trustees.

Table 44 shows the characteristics of the 1981 Hawaii State Legislature. There were seven part-Hawaiians in the State House of Representatives (14 percent of the total) and three in the State Senate (12 percent of the total).

Summary

The population of the State of Hawaii has considerable racial and cultural diversity. From the earliest times, interracial marriage was accepted by the community. As time went on and as different ethnic groups arrived, such marriages became widespread. Native Hawaiians have among the highest interracial marriage rates.

This racial and ethnic mixture has effects in the political sphere. Since the 1930's no one ethnic group has had an electoral majority, although ethnic factors do play a role in politics in Hawaii.

From the time of annexation until the 1930's, native Hawaiians comprised the largest voting block, with an absolute majority of all voters for much of that time. Voter participation among native Hawaiians was always high.

However, during the Territory period, the highest elective office in Hawaii was the non-voting delegate to the U.S. Congress. The Governor was appointed by the President of the United States.

In 1978, the Office of Hawaiian Affairs was created, which has a board of trustees that is elected only by native Hawaiians. For the first board election in 1980, 31 percent of the total native Hawaiian population registered to vote, 80 percent of those who registered actually voted, and 100 candidates ran for the nine board positions.

The 1981 Hawaii State Legislature consisted of seven part-Hawaiians in the House of Representatives (out of a total of 51), and three in the Senate (out of a total of 25).

DEMOGRAPHICS

TABLES

TABLE 1

TOTAL POPULATION: 1778 TO 1850

Date	Population Series A a/	 Series B a/	Date	Population
1778	300,000	300,000	1823	134,925
1796	280,000	270,000	1831-1832	124,449
1803	...	266,000	1835-1836	107,954
1804	280,000	154,000	Jan. 1849	87,063
1805	152,000	...	Jan. 1850	84,165
1819	145,000	144,000		

a/ Adam's alternate estimates, here arbitrarily designated A and B.

Source: Robert C. Schmitt, Demographic Statistics of Hawaii: 1778-1965 (Honolulu: University of Hawaii Press, 1968), p. 41.

TABLE 2

POPULATION OF HAWAII: 1850 to 1896

Census Date	Population	Annual change	
		Amount	Percent a/
Jan. 1850	84,165	. . .	. . .
Dec. 26, 1853	73,138	-2,771	-3.5
Dec. 24, 1860	69,800	-478	-0.7
Dec. 7, 1866	62,959	-1,150	-1.7
Dec. 27, 1872	56,897	-1,002	-1.7
Dec. 27, 1878	57,985	181	0.3
Dec. 27, 1884	80,578	3,766	5.5
Dec. 28, 1890	89,990	1,569	1.8
Dec. 27, 1896	109,020	3,310	3.3

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a/ Computed by the formula for continuous compounding.

Source: Schmitt, p. 69.

TABLE 3

HAWAIIAN POPULATION BY RACE: 1853-1896
(in percent)

Census Year	All Races	Hawaiian ("native")	Part-Hawaiian ("half-caste")	Non-Hawaiian ("foreign") Total	 Born in Hawaii	 Born elsewhere
1853	100.0	95.8	1.3	2.9	0.4	2.5
1860 a/	100.0	96.1		3.9	---	---
1866	100.0	90.7	2.6	6.7	---	---
1872	100.0	86.2	4.4	8.4	1.5	7.9
1878	100.0	76.0	5.9	18.1	1.6	16.4
1884	100.0	49.7	5.2	45.1	2.5	42.6
1890	100.0	38.3	6.9	54.9	8.3	46.5
1896	100.0	28.5	7.8	63.8	12.6	51.2

a/ Chinese living in Honolulu are included with the native population.

Source: Schmitt, p. 74.

TABLE 4

ETHNIC STOCK: 1900 TO 1960

Ethnic Stock	1900 a/	1910	1920	1930	1940	1950	1960 b/
Total	154,001	191,909	255,912	368,336	423,330	499,769	632,772
Percent Distribution							
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Hawaiian	19.3	13.6	9.3	6.1	3.4	2.5	1.8
Part-Hawaiian	5.1	6.5	7.0	7.7	11.8	14.8	14.4
Caucasian	18.7	23.0	21.4	21.8	26.5	24.9	32.0
Puerto Rican	--	2.5	2.2	1.8	2.0	1.9	--
Spanish	--	1.0	0.9	0.3	24.5	23.0	--
Portuguese	--	11.6	10.6	7.5			
Other Caucasian	--	7.7	7.7	12.2			
Chinese	16.7	11.3	9.2	7.4	6.8	6.5	6.0
Filipino	--	1.2	8.2	17.1	12.4	12.2	10.9
Korean	--	2.4	1.9	1.8	1.6	1.4	--
Japanese	39.7	41.5	42.7	37.9	37.3	36.9	32.2
Negro	0.2	0.4	0.1	0.2	0.1	0.5	0.8
Other Races	0.3	0.2	0.1	0.1	0.1	0.3	2.0

a/ The 1900 Census apparently misclassified many Part-Hawaiians and used ethnic categories not entirely consistent with those of the 1910-1930 enumerations. Romanzo Adams made two separate efforts to adjust these data (see his The Peoples of Hawaii, p. 9, and Interracial Marriage in Hawaii, p. 8).

b/ A second tabulation of 1960 race statistics, using a different procedure for allocating nonresponse, resulted in significantly different totals for some groups, particularly the Hawaiians.

Source: Schmitt, p. 120; compiled from U.S. decennial census data.

TABLE 5

HAWAII POPULATION BY RACE: 1970 AND 1980

	1970		1980	
Total	No. 769,913	%	No. 965,000	%
White	298,160	38.8	318,608	33.0
Black	7,573	1.0	17,352	1.8
Am. Indian/Esk./ Aleut	1,126	0.1	2,778	0.3
Chinese	52,039	6.8	56,260	5.8
Filipino	93,915	12.2	133,964	13.9
Japanese	217,307	28.3	239,618	24.8
Korean	8,656	1.1	17,948	1.9
Vietnamese	-------	----	3,459	0.4
Hawaiian */	71,375	9.3	115,962	12.0
Samoan	-------	----	14,168	1.5
Guamanian	-------	----	1,677	0.2
Asian Indian	-------	----	604	0.1
Other	18,410	2.4	42,602	4.4

*/ Includes full and part-Hawaiians. See explanation of U.S. Census data.

Source: U.S. Department of Commerce, Bureau of the Census, 1980 Census of Population; Race of the Population by States: 1980, Supplementary Report PC80-S1-3 (Washington, D.C.: Government Printing Office, July 1981), pp. 6-14.

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TABLE 6

HAWAII POPULATION - 1980
BY ETHNIC STOCK

(Excludes persons in institutions or military barracks, on Niihau, or in Kalawao. Based on a sample survey of 14,407 persons.)

Ethnic Stock	Total Number	Percent
All groups.......	930,271	100.0
Unmixed.............	676,344	72.7
Caucasian........	244,832	26.3
Japanese.........	218,176	23.5
Chinese..........	47,275	5.1
Filipino.........	104,547	11.2
Hawaiian.........	9,366	1.0
Korean...........	11,803	1.3
Negro............	11,799	1.3
Puerto Rican.....	6,649	0.7
Samoan...........	11,173	1.2
Other unmixed or unknown......	10,723	1.2
Mixed...............	253,927	27.3
Part-Hawaiian....	166,087	17.9
Non-Hawaiian.....	87,840	9.4

Source: State of Hawaii, Department of Planning and Economic Development, The State of Hawaii Data Book, 1981, A Statistical Abstract (November, 1981), p. 38. (Hereinafter referred to as Hawaii Data Book.)

TABLE 7
MEDIAN AGE BY SEX
1980

	Total	Male	Female
All races	28.3	27.6	29.1
White	28.0	27.4	28.7
Japanese	35.6	34.0	37.2
Chinese	33.0	32.4	33.6
Filipino	26.9	27.8	26.0
Hawaiian */	22.6	22.0	23.2

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*/ Includes full and part-Hawaiians, see explanation of U.S. Census data,

Source: U.S. Bureau of the Census, Census of the Population: 1980, Special tabulation.

TABLE 8

POPULATION BY ISLAND: 1779 TO 1850

Island	King	1779 Emory	Bligh	1805 (Youngson)	1823 (Jarves)	1831-1832 (Census)	1835-1836 (Census)	1849 (Census)	1850 (Census)
All islands..	400,000	300,000	242,200	264,160	142,050	130,313	108,579	80,641	84,165
Hawaii.......	150,000	120,000	100,000	100,000	85,000	45,792	39,364	27,204	25,864
Maui.........	65,400	75,000	40,000	48,000	20,000	35,062	24,199	18,671	21,047
Kahoolawe....	...	...	...	160	50	80	80	...	...
Lanai........	20,400	3,500	1,000	7,000	2,500	1,600	1,200	528	604
Molokai......	36,000	10,000	20,000	25,000	3,500	6,000	6,000	3,429	3,540
Oahu.........	60,000	60,000	40,000	40,000	20,000	29,755	27,809	23,145	25,440
Kauai........	54,000	30,000	40,000	40,000	10,000	10,977	8,934	6,941	6,956
Niihau.......	10,000	1,500	1,000	4,000	1,000	1,047	993	723	714
Lehua........	4,000	...	200	...	...	...	...	...	...

Source: Schmitt, p. 42.

TABLE 9

POPULATION BY GEOGRAPHIC AREAS: 1850 TO 1896

Year	Total	Hawaii	Maui	Lanai	Molokai	Oahu			Kauai	Niihau
						Total	Honolulu	Other Oahu		
1850	84,165	25,864	21,047	604	3,540	25,440	a/	--	6,956	714
1853	73,138	24,450	17,574	600	3,607	19,126	11,455	7,671	6,991	790
1860	69,800	21,481	16,400	646	2,864	21,275	14,310	6,965	6,487	647
1866	62,959	19,808	14,035	394	2,290	19,799	13,521	6,278	6,299	325
1872	56,897	16,001	12,334	348	2,349	20,671	14,852	5,819	4,961	233
1878	57,985	17,034	12,109	214	2,581	20,236	14,114	6,122	5,634	177
1884	80,578	24,991	15,970	2,614		28,068	20,487	7,581	8,935	
1890	89,990	26,754	17,357	2,826		31,194	22,907	8,287	11,859	
1896	109,020	33,285	17,726	105	2,307	40,205	29,920	10,285	15,228	164

a/ Not shown in the official reports, but later given as 14,484 (*The New Era and Weekly Argus*, Honolulu.)

Source: Schmitt, p. 70. (Changes were made in the table as it appeared in the draft report based on comments received from Robert C. Schmitt.)

TABLE 10

POPULATION BY ISLAND: 1900 to 1960

Island	1900	1910	1920	1930	1940	1950	1960
All islands	154,001	191,874	255,881	368,300	422,770	499,794	632,773
Oahu a/	58,504	81,993	123,496	202,887	257,696	353,020	500,409
Honolulu a/	39,306	52,183	81,820	137,582	179,358	248,034	294,194
Rest of Oahu	19,198	29,810	41,676	65,305	78,338	104,986	206,215
Other islands	95,497	109,881	132,385	165,413	165,074	146,774	132,363
Hawaii	46,843	55,382	64,895	73,325	73,276	68,350	61,332
Maui	25,416	28,623	36,080	48,756	46,919	40,103	35,717
Lanai		131	185	2,356	3,720	3,136	2,115
Kahoolawe	...	2	3	2	1	...	...
Molokai	2,504	1,791	1,784	5,032	5,340	5,280	5,023
Kauai	20,562	23,744	29,247	35,806	35,636	29,683	27,922
Niihau	172	208	191	136	182	222	254
Percent of total							
Oahu	38.0	42.7	48.3	55.1	61.0	70.6	79.1
Honolulu	25.5	27.2	32.0	37.4	42.4	49.6	46.5
Rest of Oahu	12.5	15.5	16.3	17.7	18.5	21.0	32.6
Other islands	62.0	57.3	51.7	44.9	39.0	29.4	20.9

a/ Data for Island of Oahu and City of Honolulu include minor outlying islands legally part of the City: 32 in 1940 (all in Palmyra), 14 in 1950 (all on French Frigate Shoals), and 15 in 1960 (all on French Frigate Shoals). Excludes Midway, never part of the Territory or State of Hawaii but sometimes reported with Hawaii for census purposes.

Source: Schmitt, p. 116.

TABLE 11

GEOGRAPHIC DISTRIBUTION

	Total	Native Hawaiian	% Native Hawaiian of Island's pop.	% of total Native Hawaiian population
Hawaii	82,900	27,510	33.2	15.7
Maui	55,300	12,555	22.7	7.2
Oahu	696,600	123,000	17.7	70.4
Kauai	35,500	7,206	20.3	4.1
Molokai	6,860	3,932	57.3	2.2
Lanai	2,957	587	19.8	0.3
Total	880,117	174,790		100

Source: U.S. Department of Labor, Assistant Secretary for Policy, Evaluation and Research, Memorandum to Lloyd Aubry (March 30, 1982). (Data originally compiled by Hawaii Health Surveillance Program, according to comments from Robert C. Schmitt.)

TABLE 12

PERCENTAGE OF POPULATION OF SCHOOL AGE OR OLDER WHO WERE LITERATE, 1890-1930

	AGE SIX AND OVER	AGE TEN AND OVER		
	1896	1910	1920	1930
Hawaiian	84.0	95.3	97.0	96.6
Part-Hawaiian	91.2	98.6	99.2	99.3
Portuguese	27.8	74.6	81.1	90.3
Other Caucasian	85.7	96.5	99.2	99.7
Chinese	48.5	67.7	79.0	84.3
Japanese	53.6	65.0	79.2	87.3
Korean		74.1	82.7	82.4
Filipino		66.4	53.3	61.5
Puerto Rican		26.8	53.3	68.0
TOTAL POPULATION	63.9	73.2	81.1	84.9

Source: Lind, p. 88. (Data for year 1890 omitted since, according to Robert C. Schmitt, they are not comparable to later years because the 1890 data did "not take account of literacy in Asian languages, thus understating the rates shown for Chinese and Japanese.")

TABLE 13

PERCENTAGE OF 16- AND 17-YEAR OLDS ATTENDING SCHOOL 1910-1950

	1910	1920	1930	1940	1950
Hawaiian	38.4	41.3	37.0	38.8	78.1
Part-Hawaiian	58.0	57.5	55.6	58.8	
Caucasian-Hawaiian	59.7	60.2	58.3		
Asiatic-Hawaiian	54.3	51.9	52.5		
Caucasian	25.9	34.0	49.1	58.6	77.4
Portuguese	15.5	25.8	35.6		
Other Caucasian	63.8	64.0	70.2		
Chinese	57.3	69.1	76.7	88.9	94.1
Japanese	29.9	35.1	54.3	72.8	94.1
Filipino	21.7	17.6	24.2	50.2	81.8
Korean	53.1	65.4	68.0		
Puerto Rican	8.4	9.3	15.2		
TOTAL POPULATION	35.9	40.1	51.8	67.1	85.8

Source: Lind, p. 91.

TABLE 14

SCHOOL ENROLLMENT - 1970 */

	State	Hawaiian **/	Japanese	Chinese	Filipino	White
Total Enrolled, 3 to 34 yrs. old	235,765	24,671	65,590	16,922	30,524	88,110
Percent Enrolled, 3 to 34 yrs. old	52.4%	55.1%	60.3%	61.6%	54.5%	45.7%
3 and 4 yrs. old	24.5	24.2	34.8	27.1	15.4	25.2
5 and 6 yrs. old	87.4	86.4	90.8	85.6	85.7	86.9
7 to 13 yrs. old	96.7	96.4	97.1	96.3	96.0	97.7
14 to 17 yrs. old: Male	96.1	90.7	95.8	93.7	91.2	96.3
Female	93.5	91.6	95.8	95.0	93.2	92.5
18 to 24 yrs. old: Male	24.3	21.7	62.9	45.5	24.8	16.5
Female	28.4	20.5	68.2	43.9	23.5	17.9
25 to 34 yrs. old	6.5	2.9	11.9	7.5	3.3	7.2
Percent in Private Schools						
Elementary (1 to 8 yrs.)	10.8	10.8	7.1	21.0	7.0	12.7
High School (1 to 4 yrs.)	12.8	14.4	3.6	26.2	5.7	16.9
Median School Yrs. Completed (25 yrs. and over)	12.3	12.0	12.3	12.4	8.7	12.7
Percent High School Graduates (25 yrs. and over)	NA	49.7	60.3	66.1	34.4	NA
Percent Completing 4 or more yrs. of college (25 yrs. and over)	14.0	4.2	10.8	18.0	4.9	21.5

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*/ Based on sample.

**/ In 1970 U.S. Census data, the "Hawaiian" category includes full- and part-Hawaiians.

Source: For Hawaiian, Japanese, Chinese and Filipino data, U.S. Bureau of the Census, Subject Reports, Japanese, Chinese and Filipinos in the United States, PC(2)-1G, 1970, pp. 11, 70, 129 and 178. For statewide data, U.S. Bureau of the Census, General Social and Economic Characteristics, United States Summary, PC(1)-C1 U.S. Summary, 1970, pp. 490-494. For whites and some stateside data, U.S. Bureau of the Census, Census of the Population: 1970, Vol. I, Characteristics of the Population, Part 13, Hawaii, pp. 13-32, 13-75, 13-76, 13-211, and 13-214.

TABLE 15

OCCUPATION: 1866-1896

Sex and census year	All Occupations: Number a/	All Occupations: Percent of pop. over 15	Agri-culturalists b/	Laborers c/	Mechanics	Professional workers d/	Other occu-pations
Both sexes:							
1866	...	...	8,254	5,025	1,146	512	...
1872	...	...	9,[illegible]70	4,772	2,115	582	...
1878	24,795	59.4	6,763	7,871	2,606	5,555	
1884	39,541	68.1	10,968	12,351	3,919	12,303	
1890	41,073	61.8	5,377	25,466	2,802	638	6,790
1896	55,294	70.2	7,570	34,438	2,265	1,224	9,797
Male:							
1890	38,930	83.6	5,280	23,863	2,690	483	6,614
1896	51,705	91.0	7,435	32,027	2,265	942	9,036
Female:							
1890	2,143	10.8	97	1,603	112	155	176
1896	3,589	16.3	135	2,411	...	282	761

a/ May include workers under 15.

b/ "Agriculturalists" to 1884; "farmers" and "planters and ranchers" for 1890; and "farmers and agriculturalists," "rice planters," "coffee planters," and "ranchers" for 1896.

c/ "Laborers" in 1866, 1890, and 1896; "plantation laborers" in 1872 and "contract laborers" in 1878 and 1884.

d/ "Professionalists" in 1866; "clergymen," "teachers," "licensed physicians," and "lawyers" in 1872; "professional men and teachers" in 1890; and "doctors," "lawyers," and "other professions" in 1896.

Source: Schmitt, p. 77.

TABLE 16

GAINFULLY EMPLOYED MALES CLASSIFIED AS PROFESSIONAL, 1896-1960

	Number Employed					Per Cent of Total				
	1896	1910	1930	1950	1960	1896	1910	1930	1950	1960
Hawaiian	132	126	242	93	*/	1.4	1.6	4.1	3.6	*/
Part-Hawaiian	54	71	293	649	*/	4.0	3.1	6.7	6.3	*/
Portuguese	30	444	180	4,232	5,589	.7	3.1	2.6	16.9	17.9
Other Caucasian	164		1,563			4.9		17.2		
Chinese	300	65	259	876	1,633	1.8	.5	3.0	10.7	16.6
Japanese	88	221	1,204	2,506	5,286	.5	.5	3.4	5.5	10.1
Filipino			268	296	424			.6	1.2	1.8
Korean			58	121	*/			2.7	8.6	*/
Puerto Rican			20	15	*/			1.1	.9	*/
All Others	13	23	32	138	*/	2.2	.4	4.2	3.7	*/
TOTAL	781	950	4,119	8,829	14,025	1.5	1.1	3.4	7.3	10.2

*/ Not separately available.

Source: Lind, p. 80.

TABLE 17

EMPLOYED MALE CIVILIANS BY LARGE ETHNIC GROUPS AND MAJOR OCCUPATIONS 1940, 1950 */, 1960

		All Races		Percent of Total Employed				
		Number	Per Cent	Haw'n.	Caucasian	Chinese	Filipino	Japanese
Managers, Officials, and Proprietors, including Farm	1940	12,612	10.6	5.8	20.0	16.3	1.4	12.9
	1950	15,274	12.6	7.9	18.5	20.1	3.0	15.1
	1960	16,850	12.3		19.4	16.6	2.7	13.7
Clerical, Sales and Kindred Workers	1940	12,371	10.4	8.3	16.3	28.6	1.6	11.4
	1950	15,049	12.4	9.9	14.1	26.3	3.4	15.1
	1960	17,149	12.5		13.3	21.3	4.8	14.8
Craftsmen, Foremen, and Kindred Workers	1940	15,526	13.0	15.4	17.4	10.2	2.4	18.8
	1950	25,251	20.9	22.9	21.2	18.4	7.5	27.7
	1960	32,312	23.6		19.2	20.7	14.3	30.2
Operatives and Kindred Workers	1940	14,422	12.1	19.8	14.4	12.0	8.0	11.6
	1950	19,350	16.0	20.1	12.7	11.3	19.9	15.0
	1960	20,687	15.2		11.7	9.9	22.1	13.0
Service Workers, including Household	1940	8,463	7.1	8.9	3.4	12.3	5.8	8.3
	1950	9,276	7.1	10.0	6.7	7.8	11.2	5.3
	1960	9,573	7.0		5.5	7.1	10.6	5.3

*/ The major occupational categories used in 1950 are not strictly comparable with those used in 1940, despite an obvious attempt by the census to secure comparability. Corrections have been made for the military population in the 1940 census returns by eliminating "soldiers, sailors, and marines," most of whom were Caucasians.

Source: Lind, p. 82.

TABLE 18

EMPLOYMENT STATUS - HAWAII, 1970 */

	State	Hawaiian **/	Japanese	Chinese	Filipino	White
Male, 16 years old & over	272,726	20,681	75,286	18,224	35,576	112,723
Labor Force	222,221	15,797	60,026	13,870	27,084	96,899
Percent of Total	81.5%	76.4%	79.7%	76.1%	76.1%	86.0%
Civilian labor force	173,361	15,303	59,242	13,603	25,632	54,526
Employed	168,940	14,651	58,388	13,315	24,912	52,772
Unemployed	4,421	652	854	288	720	1,754
Percent of civilian labor force	2.6%	4.3%	1.4%	2.1%	2.8%	3.2%
Not in labor force	50,505	4,884	15,260	4,020	8,492	15,824
Female, 16 years old & over	249,[illegible]	22,398	83,780	18,349	24,057	92,382
Labor Force	122,043	10,730	47,898	9,946	11,497	38,204
Percent of Total	49.0%	47.9%	57.2%	54.2%	47.8%	41.4%
Civilian labor force	121,123	10,711	47,852	9,935	11,497	37,419
Employed	116,616	10,150	46,838	9,761	10,948	35,411
Unemployed	4,507	561	1,014	174	549	2,008
Percent of civilian labor force	3.7%	5.2%	2.1%	1.8%	4.8%	5.4%
Not in labor force	127,244	11,668	35,882	8,403	12,560	54,178

---

*/ Data based on 20 percent sample.

**/ In 1970 U.S. Census data, the "Hawaiian" category includes full- and part-Hawaiians.

Source: U.S. Bureau of the Census, Census of the Population 1970, Subject Report P(2)-1G, Japanese, Chinese and Filipinos in the United States, for Hawaiian, Japanese, Chinese, and Filipino statistics, pp. 13, 75, 133, and 179. For State of Hawaii statistics, U.S. Bureau of the Census, Census of the Population 1970, PC(1)-C1, General Social and Economic Characteristics, U.S. Summary, pp. 500-501. For whites, U.S. Bureau of the Census, Census of the Population 1970, Characteristics of the Population, Vol. I, Part 13, Hawaii, pp. 13-266 and 13-267.

TABLE 19

NUMBER OF HAWAIIANS AND PART-HAWAIIANS UNEMPLOYED IN THE STATE - 1975

	Hawaiian		Part-Hawaiian	
	Male	Female	Male	Female
Oahu	20	154	2,338	2,006
Hawaii	24	0	322	234
Kauai	10	10	31	51
Maui	0	7	137	178
Molokai/Lanai	26	11	234	123
TOTAL	80	182	3,062	2,592
TOTAL MALE & FEMALE	262		5,654	
GRAND TOTAL	5,916			
UNEMPLOYMENT RATE */	11.6%			
STATE WIDE UNEMPLOYMENT RATE **/	6.5%			

*/ Unemployment rate = $\frac{\text{Number unemployed}}{\text{No. in labor force}}$

Number of Hawaiians/Part-Hawaiians in labor force (1973) = 51,058

Unemployment rate for Hawaiians/Part-Hawaiians (1975) = $\frac{5,916}{51,058}$ = 11.6%

**/ From 1975 State Data Book.

Source: Oahu, Hawaii, Maui, Molokai and Lanai: OEO 1975 Census Update Survey; Kauai: 1974-5 Kauai Socioeconomic Profile Survey, updated and weighted. Received from U.S. Department of Labor.

TABLE 20

PERCENTAGE OF MALES RECEIVING INCOMES IN 1949, 1959, 1969 BY INCOME CLASSES

	Up to $999	$1,000-1,999	$2,000-2,999	$3,000-3,999	$4,000-4,999	$5,000-6,999	$7,000-9,000	$10,000 and Over	Median Income
All Races									
1949	16.6	22.3	27.1	17.6	6.9	5.3	2.1	1.8	$2,340
1959	11.3	14.4	12.2	16.0	13.0	18.0	8.7	6.5	3,717
1969 */	8.5	10.0	8.1	6.4	6.1	14.3	19.6	26.8	6,529
Caucasian									
1949	9.7	24.8	17.8	18.3	10.1	11.0	4.6	3.7	2,856
1959	7.9	21.5	11.9	12.7	10.9	14.5	9.9	10.6	3,649
1969 */	7.3	10.6	10.4	7.8	5.9	13.6	16.3	28.1	6,173
Chinese									
1949	17.6	14.9	20.2	22.9	11.9	7.5	3.4	3.5	2,964
1959	10.8	7.0	6.9	10.2	13.7	26.1	15.4	9.8	5,096
1969 */	8.6	7.4	4.8	4.5	4.1	10.5	19.2	33.5	8,000
Japanese									
1949	17.5	17.3	29.6	21.1	6.8	3.7	1.4	1.5	2,427
1959	12.5	8.4	8.9	15.4	15.8	24.2	9.7	5.0	4,302
1969 */	7.4	8.0	4.9	4.2	4.3	11.1	22.8	31.0	7,839
Filipino									
1949	18.1	32.6	40.2	7.6	1.2	.5	.1	.1	1,995
1959	14.5	11.6	22.0	28.0	11.7	9.5	2.3	.5	3,071
1969 */	8.2	11.3	7.7	6.8	10.0	21.6	18.2	10.0	5,252
Hawaiian and Part-Hawaiian									
1949	22.5	17.2	25.5	21.5	[illegible]	3.7	1.5	.7	2,369
1959	--	--	--	--	--	--	--	--	---
1969 **/	8.5	7.9	5.4	5.4	5.8	13.8	22.5	21.9	6,835

*/ Males, with income, age 14 and over; 1969 data not entirely comparable with previous U.S. Census data.

**/ Males, with income, age 16 and over.

Source: 1949 and 1959 data from Lind, p. 100. 1969 data from U.S. Department of Commerce, Bureau of the Census, 1970 Census of the Population; Japanese, Chinese, and Filipinos in the United States, Subject Report PC(2)-1G (Washington, D.C.: Government Printing Office, 1973), pp. 15, 74, 146 and 179; and 1970 Census of the Population; Characteristics of the Population, Vol I, Part 13, Hawaii (1973), p. 13-77.

TABLE 21
NUMBER OF HAWAIIANS AND PART-HAWAIIANS BELOW POVERTY LEVEL IN THE STATE

	Hawaiian		Part-Hawaiian	
	Male	Female	Male	Female
Oahu	716	838	12,618	14,697
Hawaii	287	364	3,751	3,466
Kauai	112	72	414	612
Maui	74	130	1,238	1,447
Molokai/Lanai	23	50	291	283
Total	1,212	1,454	18,312	20,505
Total Male and Female	2,666		38,817	
Grand Total	41,483			

Source: 1975 OEO Census Update.

TABLE 23
POPULATION AND ARRESTS AS A PERCENTAGE OF ETHNIC STOCK, STATE OF HAWAII, 1981

	Population 1/		Arrests	
	Number	Percent	Number	Percent
Caucasian	318,770	33.0	13,110	35.3
Black	17,364	1.8	1,506	4.1
Indian	2,655	.3	10	--
Chinese	56,285	5.8	691	1.9
Japanese	239,748	24.9	2,871	7.7
Filipino	133,940	13.9	3,966	10.7
Samoan	14,073	1.5	1,507	4.1
Korean	17,962	1.9	512	1.4
Hawaiian/ Part-Hawaiian	115,500	12.0	8,551	23.0
Other	48,394	5.0	4,408	11.9
TOTAL	964,691	100.0	37,132	100.0

Percentages may not total 100 due to rounding.

1/ Population figures from State of Hawaii, Department of Planning and Economic Development. By self-identification or race of mother. Data are not comparable to Health Surveillance Program tabulations used in previous years' reports.

Source: State of Hawaii, Hawaii Criminal Justice Information Center, Crime in Hawaii 1981; A Review of Uniform Crime Reports (April 1981), p. 39.

TABLE 22
PERCENT OF NATIVE HAWAIIANS IN EACH WELFARE CATEGORY COMPARED TO PERCENT OF NATIVE HAWAIIANS IN TOTAL POPULATION

		Welfare Categories			
	State Population	AFDC-UP	General Assistance ABC	Food Stamps	Medical
State					
Total	964,691	54,819	9,713	41,577	20,269
Hawaiian	115,500	16,878	2,144	6,331	2,171
Percent	12.0	30.8	22.1	15.2	10.7
Oahu					
Total	762,565	40,101	7,372	28,123	14,166
Hawaiian	80,172	12,302	1,363	3,797	1,116
Percent	10.5	30.7	18.5	13.5	7.9
Hawaii					
Total	92,053	8,797	1,441	7,864	3.344
Hawaiian	17,274	2,778	451	1,453	594
Percent	18.8	31.6	31.3	18.5	17.8
Maui					
Total	70,991	3,825	553	3,153	1,551
Hawaiian	12,350	1,273	220	805	279
Percent	17.4	33.3	39.8	25.5	18.0
Kauai					
Total	39,082	2,096	347	2,437	1,208
Hawaiian	5,704	525	110	276	182
Percent	14.6	25.0	31.7	11.3	15.1

Source: State population obtained from The State of Hawaii Data Book, 1982. Welfare data obtained from Department of Social Services and Housing, October-December 1982.

TABLE 24
POPULATION AND ARRESTS AS A PERCENTAGE OF ETHNIC STOCK, STATE OF HAWAII, 1981
(USING STATE OF HAWAII POPULATION FIGURES)

	Population 1/		Arrests
Ethnicity	Number	% Dist.	%
Caucasian	244,832	26.3	35.3
Japanese	218,176	23.5	7.7
Hawaiian/ Part Hawaiian	175,453	18.9	23.0
Filipino	104,547	11.2	10.7
Chinese	47,275	5.1	1.9
Korean	11,802	1.3	1.4
Black	11,799	1.3	4.1
Samoan	11,173	1.2	4.1

1/ Population figures from State of Hawaii Health Surveillance Program; provided to the Commission by the Hawaii Department of Social Services and Housing.

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TABLE 25

OFFENSE BY RACE OF ADULTS ARRESTED, STATE OF HAWAII, 1981
(PERCENT)

RACE	MURDER	MAN-SLAUGHTER	RAPE	ROBBERY	AGGRAVATED ASSAULT	BURGLARY	LARCENY-THEFT	DRUG ABUSE	GAMBLING
Caucasian	31.4	37.5	34.7	31.7	29.8	37.5	39.2	48.0	8.9
Black	4.0	6.3	11.8	8.2	8.5	3.8	3.7	6.1	0.5
Indian	--	6.3	--	--	0.4	--	--	--	--
Chinese	--	--	--	1.6	0.7	1.9	4.1	1.6	5.6
Japanese	4.0	25.0	2.8	7.4	8.1	6.6	8.4	8.0	18.4
Filipino	13.7	--	4.9	3.7	15.1	8.8	11.3	9.3	47.0
Hawaiian/ Part Hawaiian	21.6	6.3	21.5	24.5	21.0	27.3	18.6	17.5	8.3
Korean	--	--	1.4	0.4	2.2	0.1	1.7	0.4	2.3
Samoan	15.7	12.5	6.9	10.5	3.7	3.6	4.1	1.5	1.1
Other	9.8	6.3	16.0	12.1	10.7	10.3	8.8	7.7	7.8
Total */	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total No.	51	16	144	514	272	770	3,953	2,627	783

*/ Percentages may not add to 100, due to rounding.

Source: Crime in Hawaii 1981, pp. 61-62.

TABLE 26

OFFENSE BY RACE OF JUVENILES ARRESTED, STATE OF HAWAII, 1981
(PERCENT)

RACE	MURDER	BURGLARY	LARCENY-THEFT	MOTOR VEHICLE THEFT	OTHER ASSAULT	VANDALISM	DRUG ABUSE	RUN-AWAYS
Caucasian	8.0	19.5	17.1	12.9	13.8	18.8	30.0	21.4
Black	1.2	0.7	1.4	0.6	1.1	0.8	0.5	1.3
Indian	--	--	--	--	--	--	--	--
Chinese	--	--	1.2	--	0.2	0.4	0.3	0.4
Japanese	2.5	2.6	6.8	3.6	3.6	5.4	6.5	2.0
Filipino	6.8	7.8	15.7	8.1	9.3	11.3	9.2	5.7
Hawaiian/ Part-Hawaiian	38.9	42.3	32.1	52.8	41.7	36.8	33.4	44.5
Korean	--	0.7	1.5	0.8	2.6	--	0.3	0.7
Samoan	24.7	6.9	6.1	4.9	7.5	7.1	1.0	3.1
Other	17.9	19.4	18.1	15.9	20.2	19.2	18.8	21.0
Total */	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total No.	162	995	3,137	371	549	239	601	1,070

*/ Percentages may not total 100, due to rounding.

Source: Crime in Hawaii 1981, p. 74.

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TABLE 27

CRUDE BIRTH AND DEATH RATES, 1848 TO 1965

(Place of occurrence basis. Not adjusted for underregistration, thought to be extensive in many of these years. Because of doubtful accuracy, the data before 1910 should be used with utmost caution.)

Period	Birth Rate a/	Death Rate a/
1848-1859	21.3	45.8
1860-1869	27.1	40.8
1870-1879	41.0	51.4
1880-1889	23.6	25.3
1890-1899 b/	...	26.4
1900-1909	16.6	16.6
1910-1919	31.3	16.3
1920-1929	39.5	14.4
1930-1939	26.2	9.6
1940-1949	26.6	6.8
1950-1959	31.8	6.1
1960-1965	27.3	5.5

a/ Annual events per 1,000 population computed as average of annual rates for period. Population base excludes armed forces after 1897. Residence basis to 1950; de facto basis thereafter.

b/ City of Honolulu only.

Source: Schmitt, p. 164.

TABLE 28

DEATHS UNDER ONE YEAR OF AGE PER THOUSAND BIRTHS, 1924-1980

	1924	1929	1940	1950	1960	1963	1970	1980
All Races	119	91	50	24	22	21	19	10
Hawaiian	285	198	129	60	42	[illegible]	65	--
Part-Hawaiian	96	109	57	26	26	25	22	10
Portuguese	100	64	39	24	20	20	19	11
Other Caucasian	44	49						
Chinese	64	55	40	24	21	21	18	9
Japanese	88	57	34	18	22	17	14	7
Korean	70	51	36	19	29	16	35	10
Filipino	296	219	73	31	25	22	18	12
Puerto Rican	110	99	67	26	24	13	32	6

Source: For 1924-1963: Lind, p. 106; for 1970 and 1980, Hawaii State Department of Health, Annual Report Statistical Supplement, 1970 and 1980.

TABLE 29

RESIDENT INFANT DEATHS BY RACE OF MOTHER 1977-1981

	BIRTHS	DEATHS	RATE */
All races	87,463	922	10.5 +/- 0.7
Caucasian	26,664	236	8.9 +/- 1.1
Hawaiian	707	7	9.9 +/- 7.3
Part-Hawaiian	18,606	256	13.8 +/- 1.7
Chinese	3,285	23	7.0 +/- 0.9
Filipino	14,954	137	9.2 +/- 1.4
Japanese	12,688	112	8.8 +/- 1.6
Puerto Rican	1,066	8	7.5 +/- 5.2
Korean	1,775	20	11.3 +/- 4.9
Portuguese	735	6	8.2 +/- 5.5

*/ Number of infant deaths per 1,000 live births +/- 95% confidence limits.

Source: Department of Health Annual Report, Statistical Supplement 1977, 1978, 1979, 1980, 1981. Confidence limits calculated by Department of Health Research and Statistics Office.

TABLE 30

CHARACTERISTICS OF BIRTHS BY RACE OF MOTHER HAWAII RESIDENTS 1980 1/

Race of Mother	Births	Rate Per 1000 Pop. 2/	Sex Ratio 3/	Low Birth Weights	Illegitimate 4/
Total	18,129	19.5	1.1	7.1%	175.9
Caucasian	5,859	24.0	1.1	5.9%	133.6
Hawaiian	163	17.5	0.9	7.4%	276.1
Part-Hawaiian	3,841	[illegible]	1.0	7.4%	363.2
Japanese	2,655	12.2	1.1	11.8%	67.8
Chinese	704	14.9	1.0	5.8%	62.5
Filipino	3,042	29.1	1.1	9.3%	153.2

1/ All data Department of Health Statistical Supplement 1980.

2/ Based on population totals from State of Hawaii Data Book 1981.

3/ Males divided by females.

4/ Number of illegitimate births per 1000 live births.

TABLE 31

ESTIMATED LIFE EXPECTANCY AT BIRTH BY ETHNIC GROUP, 1910-1970

YEAR	CAUCASIAN	CHINESE	FILIPINO	HAWAIIAN	JAPANESE	OTHER	TOTAL
1910	54.83	54.17	n/a	32.58	49.34	15.62	43.96
1920	56.45	53.80	28.12	33.56	50.54	28.38	45.69
1930	61.90	60.07	46.14	41.87	60.07	32.58	53.95
1940	64.03	65.32	56.85	51.78	66.28	59.48	62.00
1950	69.21	69.74	69.05	62.45	72.58	68.29	69.53
1960	72.80	74.12	71.53	64.60	75.68	62.19	72.42
1970	73.24	76.11	72.61	67.62	77.44	76.74	74.20

Source: C. B. Park, R.W. Gardner, and E.C. Nordyke, R&S Report, Research and Statistics Report (Honolulu: Hawaii State Department of Health, June 1979), p. 8. Comparable figures for 1980 are not yet available from the Department of Health.

TABLE 32

LEADING CAUSES OF DEATH: 1920 to 1980

Cause of Death	Percent distribution a/							Rate per 100,000 population a/						
	1920	1930	1940	1950	1960	1970	1980	1920	1930	1940	1950	1960	1970	1980
All causes b/	100.0	100.0	100.0	100.0	100.0	100.0	100.0	1,767	1,043	724	583	568	549	504
Influenza and pneumonia	32.3	12.6	7.2	4.6	3.6	4.1	3.6	572	132	52	27	21	22	18
Tuberculosis (all forms)	11.5	9.8	8.3	3.9	0.4	NA	NA	204	102	60	23	2	NA	NA
Diarrhea and enteritis	9.6	8.6	1.0	0.7	0.4	NA	NA	169	89	7	4	3	NA	NA
Diseases of early infancy	5.4	6.6	6.7	6.7	7.5	4.9	1.9	95	69	48	39	43	27	10
Heart diseases	4.8	11.7	18.1	29.6	33.0	32.9	31.5	86	122	131	173	188	180	159
Accidents (all forms)	4.8	7.0	7.6	6.0	7.6	7.1	6.6	84	73	55	35	43	38	33
Nephritis and nephrosis	3.8	6.2	9.2	2.0	1.3			66	65	67	12	8		
Cancer and other malignant neoplasms	3.3	5.8	9.8	15.4	17.2	18.1	23.3	58	61	71	90	98	99	117
Cerebral hemorrhage	3.0	4.7	6.0	8.9	8.8	NA	NA	53	49	43	52	50	NA	NA
Deliveries and complications of pregnancy	1.9	1.7	0.7	0.4	0.1	NA	NA	33	18	5	2	1	NA	NA
Suicide	1.2	1.7	2.6	1.9	1.3	2.0	2.3	20	18	19	11	7	11	11
Beriberi	1.2	1.6	0.5	0.1	0	NA	NA	20	17	4	1	0	NA	NA
Congenital malformations	0.8	1.1	1.8	2.8	2.2	1.8	1.4	13	11	13	16	12	10	7
Diabetes mellitus	0.4	1.1	2.0	3.0	2.6	2.3	2.6	7	11	14	18	15	13	13

a/ All data include armed forces.
b/ Including causes not shown separately.

Source: For 1920-1960 data, Annual Report, Department of Health, State of Hawaii, Statistical Supplement, 1960, p. 34. For 1970 and 1980, Hawaii State Department of Health, Statistical Supplement, 1980, p. 23.

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TABLE 33

LEADING CAUSES OF DEATH */ IN HAWAII RESIDENTS BY RACE 1980

Condition	Caucasian	Chinese	Filipino	Haw'n	Japanese
Diseases of Heart	163	227	144	62	179
Cancer	130	123	85	113	138
Cerebro-vascular	39	40	40	27	53
All accidents	40	27	38	41	22
Influenza/pneumonia	15	17	20	10	32
Diabetes mellitus	10	27	10	21	11
Suicide	18	5	4	10	10
Perinatal conditions	10	3	15	15	4
Cirrhosis of liver	17	5	7	3	5
Homicide	11	3	6	10	3

*/ Rates based on estimated population per 100,000 (1980 Census).

Source: Unpublished tables from Department of Health Research and Statistics Office supplied by Dr. Thomas Burch.

TABLE 34

AGE STANDARDIZED INCIDENCE OF CANCER BY RACE HAWAII 1973-1980

	MALE			FEMALE		
RACE	prostate	stomach	lung	lung	breast	cervix
Caucasian	59.5	11.5	65.1	28.5	94.2	39.0
Chinese	27.1	12.5	42.6	26.6	70.3	19.9
Filipino	30.2	7.7	24.5	18.9	38.4	32.5
Hawaiian	38.3	40.2	103.1	39.7	97.8	34.2
Japanese	30.8	30.1	34.1	11.9	54.5	17.2

Source: Hawaii Tumor Registry, unpublished data supplied by Dr. Thomas Burch, Hawaii State Department of Health.

Incidence rate per 100,000 population.

Population estimates from Health Surveillance Program of the Department of Health for 1976.

TABLE 35

: NUMBER OF ACUTE CONDITIONS PER 100 PERSONS PER YEAR BY ETHNICITY, 1980

	CAUCASIAN	JAPANESE	HAWAIIAN PT. HAWAIIAN	FILIPINO	CHINESE	OTHER & UNKNOWN
All Acute Conditions	193.2	12[illegible].8	200.4	123.8	104.3	212.4
Infective Parasitic Diseases	15.3	3.0	8.1	8.2	11.9	15.7
Respiratory Condition	118.4	88.0	150.0	90.8	56.3	138.4
Upper Respiratory	72.9	71.1	110.0	58.2	44.7	96.7
Influenza	40.2	13.8	39.0	30.3	9.5	35.7
Other Respiratory Condition	5.2	3.1	1.1	2.2	2.1	5.9
Digestive System Condition	3.6	3.0	4.3	3.4	---	2.4
Injuries	31.6	16.8	18.4	10.8	15.9	22.4
All Other Acute Conditions	24.1	12.8	19.6	10.6	20.2	33.6

Source: Hawaii State Department of Health, Statistical Supplement, 1980, p. 71.

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TABLE 36

NUMBER OF CHRONIC CONDITIONS PER 1,000 PERSONS PER YEAR BY ETHNICITY, 1980

SELECTED CHRONIC CONDITION	CAUCASIAN	JAPANESE	HAWAIIAN PT. HAWAIIAN	FILIPINO	CHINESE	OTHER & UNKNOWN
Heart Condition	25.4	22.0	17.6	17.2	27.6	10.6
Impairments of Back or Spine	40.9	36.3	28.4	17.2	31.1	28.4
Hypertension without Heart Involvement	61.3	119.3	58.1	74.3	125.4	38.3
Arthritis/Rheumatism	45.1	35.7	12.1	19.5	24.0	12.4
Hearing Impairment	39.1	35.9	19.7	16.0	19.4	6.5
Asthma, with or without Hayfever	24.7	20.2	50.8	26.9	17.6	33.6
Diabetes	14.9	36.4	25.4	19.8	27.9	13.9
Mental and Nervous Condition	16.6	4.7	5.7	4.7	4.2	13.5
Visual Impairment	13.8	17.0	11.6	7.6	16.3	5.1
Malignant Neoplasms	10.6	5.1	2.6	4.0	6.2	4.2
Chronic & Allergic Skin Conditions	28.1	17.0	15.4	9.1	22.7	15.8
Chronic Sinusitis	37.6	15.3	13.0	8.8	20.9	17.6
Hayfever without Asthma	80.8	57.8	41.4	21.8	72.7	35.7
Stomach Ulcer	9.1	8.5	4.3	13.6	8.0	6.3
Bronchitis/Emphysema	15.3	4.1	11.8	7.0	9.4	12.6
Benign & Unsuspecified Neoplasms	6.4	9.2	3.9	3.0	11.0	2.4
Hemorrhoids	22.4	13.8	11.4	7.5	23.1	12.0
Thyroid/Goiter	8.1	5.6	4.2	4.0	7.6	5.0
Varicose Veins	3.7	5.0	2.6	1.1	5.2	4.0
Gout	6.4	13.7	13.2	17.3	18.6	2.5

Source: Hawaii State Department of Health, Statistical Supplement, 1980, p. 67.

TABLE 37

LIFETIME PREVALANCE AND CURRENT USE OF ALCOHOL BY ETHNICITY

GROUPS	LIFETIME USE %	CURRENT USERS %
Caucasian	91.4	77.7
Chinese	72.5	40.5
Filipino	52.8	36.1
Hawaiian/ Part-Hawaiian	80.8	52.8
Japanese	77.6	44.6
Portuguese	86.5	52.6
Other	76.4	51.3
State	79.2	55.1

Source: Hawaii State Department of Health, Needs Assessment, Alcohol and Drug Abuse (Honolulu: Hawaii State Department of Health, Alcohol and Drug Abuse Branch, 1980), p. 10.

TABLE 38

ALCOHOL ABUSERS AND ALCOHOL TREATMENT POPULATION BY ETHNICITY

Group	%age of Abusing Pop.	Abusers as %age of Group Pop.	%age of Alcohol Treatment Pop.
Filipino	8.8	6.6	2.3
Chinese	2.2	3.2	.2
Caucasian	40.6	11.1	70.8
Japanese	11.4	3.7	3.7
Hawaiian/ Part-Hawaiian	19.4	9.4	10.2
Portuguese	1.7	5.9	1.7
Other	16.0	7.8	10.8

Source: Hawaii State Department of Health, Needs Assessment, Alcohol and Drug Abuse, pp. 11 and 14.

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TABLE 39

DRUG ABUSERS AND DRUG TREATMENT POPULATION BY ETHNICITY

Group	%age of Abusing Pop.	Abusers as %age of Group Pop.	%age of Drug Treatment Pop.
Filipino	5.5	2.9	4.6
Chinese	2.4	2.6	2.4
Caucasian	49.1	9.5	26.6
Japanese	5.7	1.3	7.1
Hawaiian/ Part-Hawaiian	22.3	7.6	44.4
Portuguese	2.4	6.0	3.0
Other	12.0	4.1	14.0

Source: Hawaii State Department of Health, Needs Assessment, Alcohol and Drug Abuse, pp. 23 and 26.

TABLE 40

ETHNICITY OF PERSONS ABUSING BOTH ALCOHOL AND DRUGS

Group	%age of Abusing Pop.	Abusers as %age of Group Pop.
Filipino	.3	.1
Chinese	.3	.1
Caucasian	49.0	3.0
Japanese	6.3	.5
Hawaiian/ Part-Hawaiian	22.8	2.5
Portuguese	4.8	3.8
Other	16.5	2.0

Source: Hawaii State Department of Health, Needs Assessment, Alcohol and Drug Abuse, p. 29.

TABLE 41

INTERRACIAL MARRIAGES AS PERCENTAGE OF ALL MARRIAGES, 1912-1981

		Percent Out-Marriages							
		1912-1916	1920-1930	1930-1940	1940-1950	1950-1960	1960-1964	1970-1979	1980-1981
Hawaiian	Grooms	19.4	33.3	55.2	66.3	78.9	85.9	86.6	91.2
	Brides	39.9	52.1	62.7	77.2	81.5	85.4	88.7	87.0
Part-Hawaiian	Grooms	[illegible]2.1	38.8	41.0	36.9	41.3	47.0	57.3	56.0
	Brides	66.2	57.7	57.9	64.2	58.4	56.8	58.0	58.9
Caucasian	Grooms	17.3	24.3	22.4	33.8	37.4	35.1	25.9	23.8
	Brides	11.7	13.8	10.7	10.2	16.4	21.1	20.7	18.1
Chinese	Grooms	41.7	24.8	28.0	31.2	43.6	54.8	60.4	60.0
	Brides	5.7	15.7	28.5	38.0	45.2	56.6	65.2	64.2
Japanese	Grooms	0.5	2.7	4.3	4.3	8.7	15.7	33.2	39.1
	Brides	0.2	3.1	6.3	16.9	19.1	25.4	40.2	44.3
Korean	Grooms	26.4	17.6	23.5	49.0	70.3	77.1	60.8	47.4
	Brides	0.0	4.9	39.0	66.7	74.5	80.1	82.4	76.9
Filipino	Grooms	21.8	25.6	37.5	42.0	44.5	51.2	47.1	44.8
	Brides	2.8	1.0	4.0	21.0	35.8	47.5	50.3	53.1
Puerto Rican	Grooms	24.4	18.6	29.8	39.5	51.3	65.0	79.1	77.1
	Brides	26.4	39.7	42.8	40.5	60.5	67.2	77.4	71.0
TOTAL		11.5	19.2	22.8	28.6	32.8	37.6	N/A	N/A

Sources: For 1912-1964, Lind, p. 108; for 1970-1981, Hawaii Department of Health, Statistical Supplements.

TABLE 42

REGISTERED VOTERS (1902-1940)

	PERCENT OF TOTAL				
	1902	1910	1920	1930	1940
Hawaiian & Part-Hawaiian	68.8	66.6	55.6	38.1	24.7
Portuguese	4.7	10.6	11.7	15.8	30.1
Other Caucasian	25.3	20.0	25.8	23.3	
Chinese	1.1	2.7	4.3	8.4	8.5
Japanese	0.0	0.1	2.5	13.4	31.0
All Others				1.0	5.6
TOTAL	100.0	100.0	100.0	100.0	100.0

Source: Lind, p. 97.

TABLE 43

REGISTERED VOTERS AND VOTES CAST FOR THE BOARD OF TRUSTEES OF THE OFFICE OF HAWAIIAN AFFAIRS, BY COUNTIES: November 4, 1980

	Registered Voters			Votes Cast	
County	Both Sexes	Male	Female	No.	% of reg. voters
State total 1/	54,083	24,465	29,618	42,848	79.2
Hawaii	7,446	3,382	4,064	6,156	82.6
Maui	6,336	2,972	3,364	4,760	75.1
Honolulu	37,346	16,708	20,638	29,499	78.9
Kauai	2,955	1,403	1,552	2,433	82.3

1/ Based on 1980 population estimated by race from the Hawaii Health Surveillance Program; 30.8 percent of the Hawaiian and Part-Hawaiian population registered for the OHA special election and 24.4 percent cast OHA ballots. Participation in this special election was limited to persons with Hawaiian blood, numbering approximately 175,453--including those ineligible because of age--in 1980.

Source: Hawaii Data Book, p. 333.

TABLE 44

COMPOSITION OF THE 1981 HAWAII STATE LEGISLATURE

	HOUSE OF REPRESENTATIVES			SENATE		
Subject	Total	Democrats	Republicans	Total	Democrats	Republicans
All members..................	51	39	12	25	17	8
Island of residence:						
Hawaii......................	5	4	1	3	2	1
Maui........................	4	3	1	2	2	-
Lanai.......................	-	-	-	-	-	-
Molokai.....................	-	-	-	-	-	-
Oahu........................	39	29	10	19	12	7
Kauai.......................	3	3	-	1	1	-
Niihau......................	-	-	-	-	-	-
Ethnic Stock:						
Caucasian, except Portuguese	8	5	3	5	3	2
Chinese.....................	1	1	-	2	1	1
Filipino....................	3	3	-	1	1	-
Japanese....................	24	23	1	12	9	3
Negro.......................	-	-	-	1	1	-
Portuguese..................	1	-	1	1	-	1
Other (unmixed) 1/...........	-	-	-	-	-	-
Mixed: Part-Hawaiian.......	7	4	3	3	2	1
Mixed: Non-Hawaiian........	7	3	4	-	-	-

1/ Hawaiian, Korean, Puerto Rican, Samoan, or other ethnic stock.

Source: Hawaii Data Book, p. 336.

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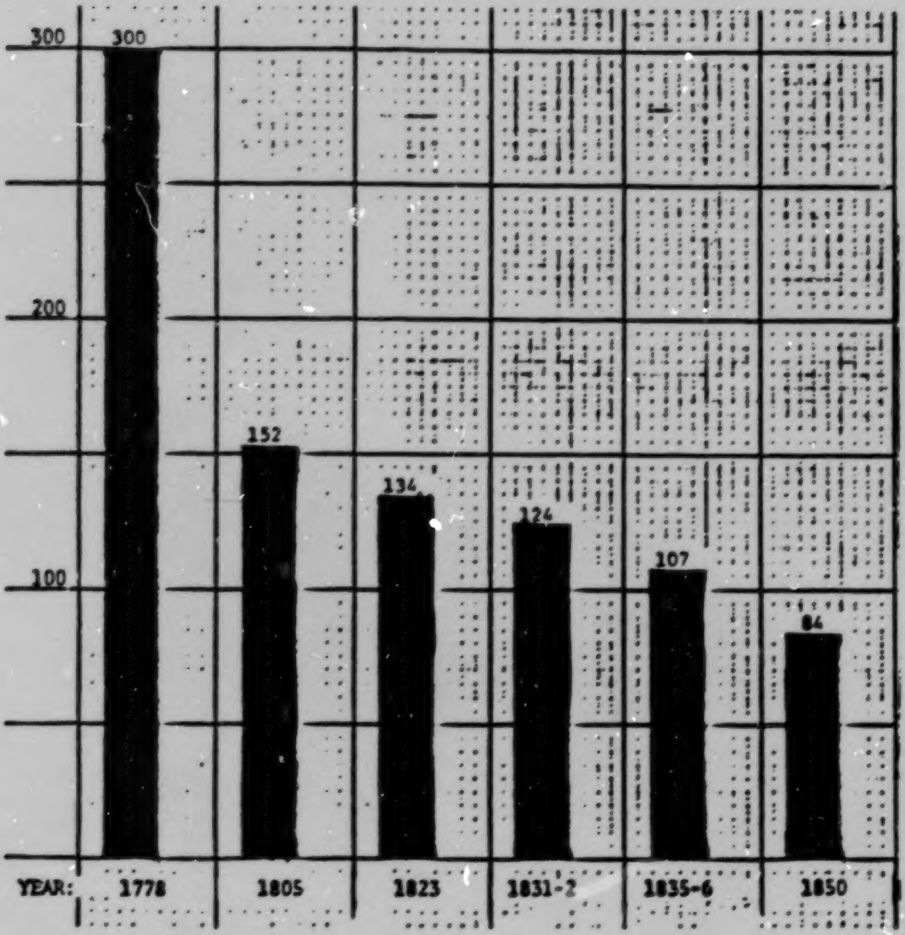
CHARTS

CHART 1

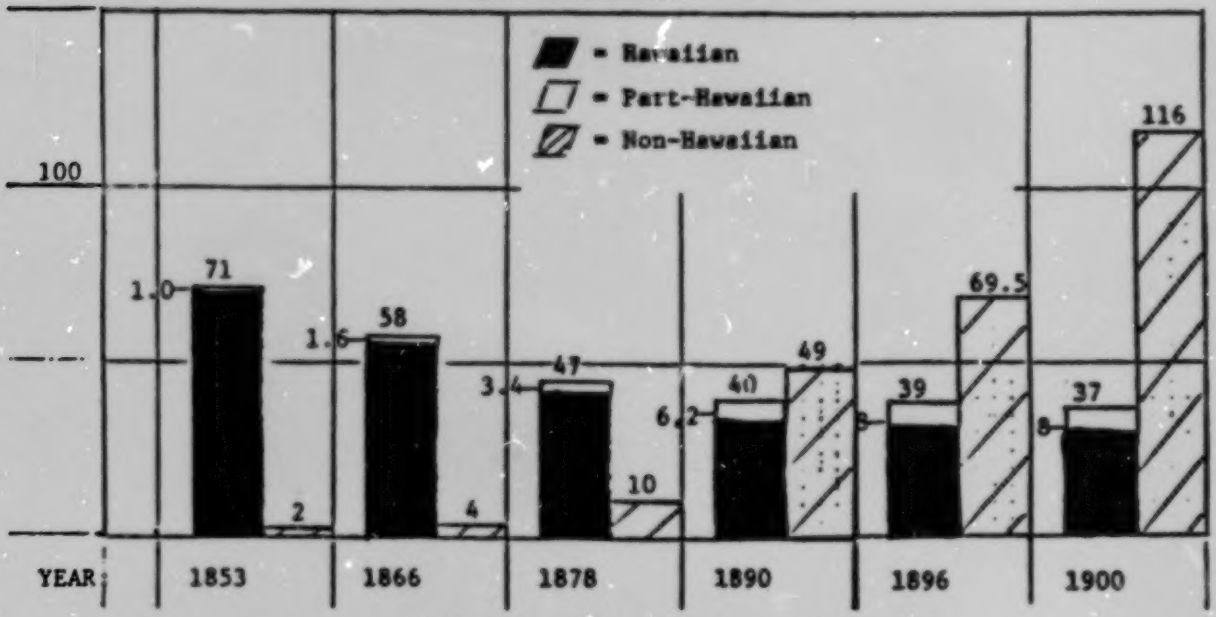
TOTAL NATIVE HAWAIIAN POPULATION
1778 - 1850
(in thousands)



Source: Schmitt, p. 41.

CHART 2

TOTAL POPULATION BY RACE
1853-1900
(in thousands)



Source: Schmitt, pp. 74 and 120.

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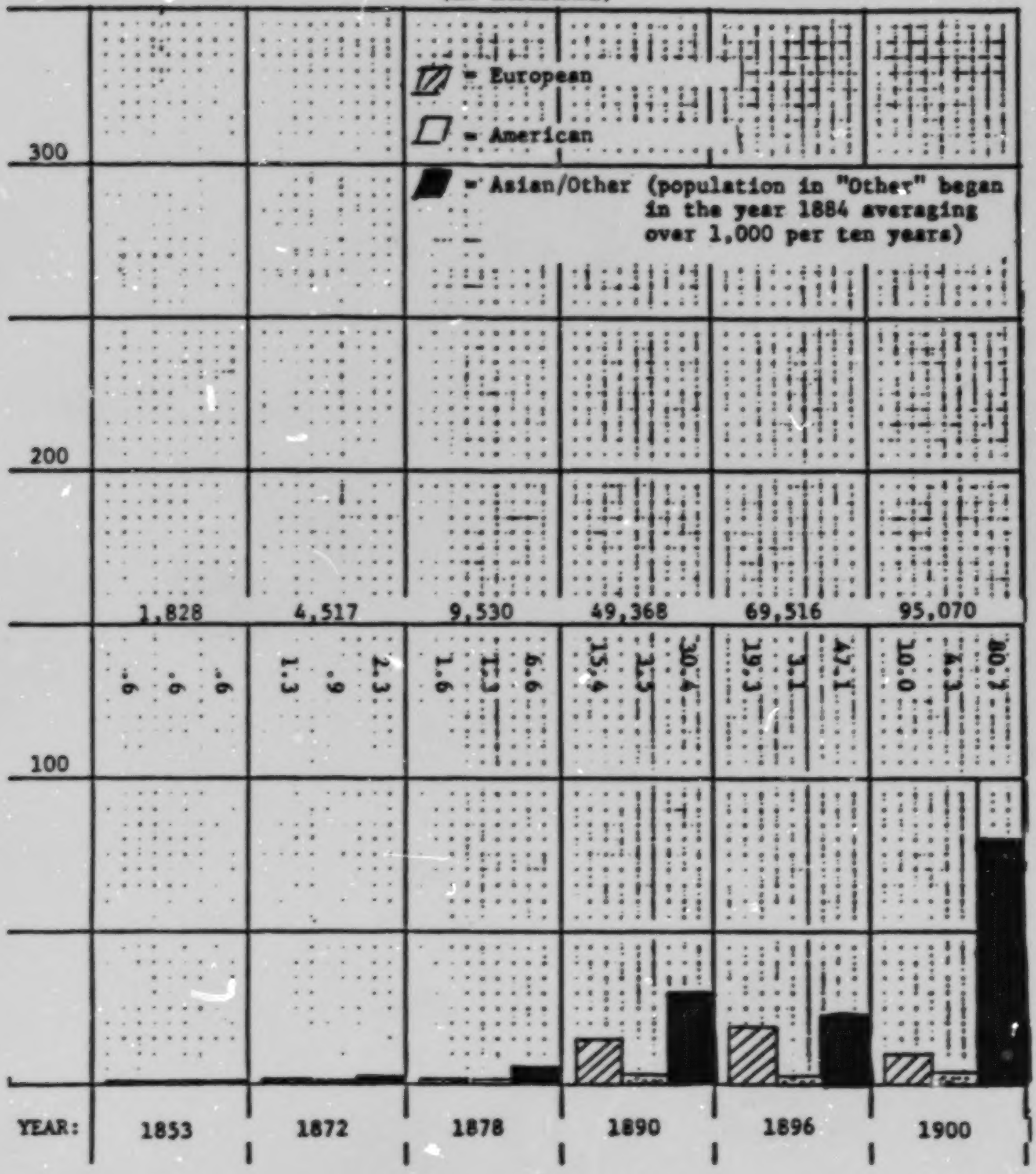
CHART 3

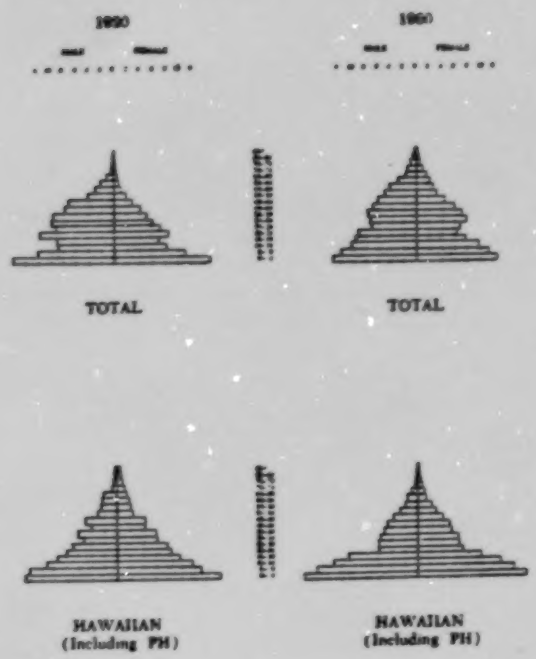
NON-HAWAIIAN POPULATION BY NATIONAL ORIGIN
1853-1900
(in thousands)



Source: Schmitt, pp. 75 and 121.

CHART 4

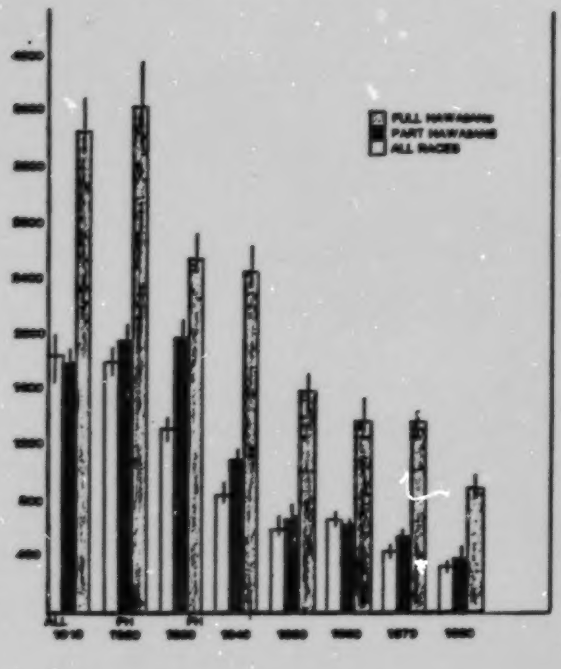
AGE AND SEX PYRAMIDS
1920,1960



Source: Andrew W. Lind, Hawaii's People, 3rd ed. (Honolulu: University of Hawaii Press, 1967), p. 34.

CHART 5

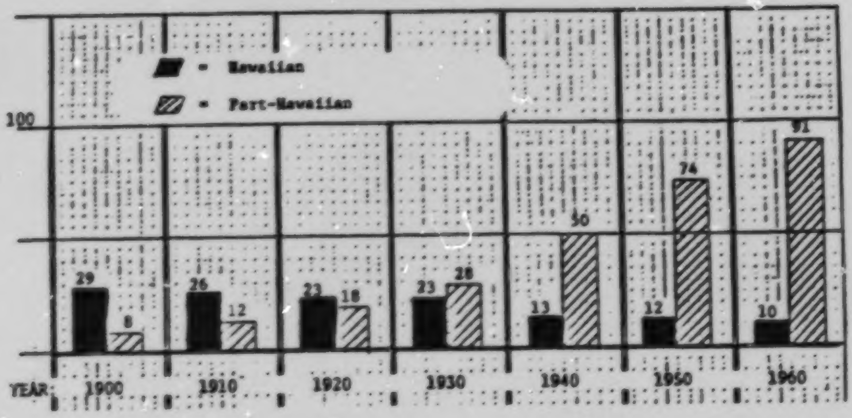
CAUSE OF DEATH: ALL CAUSES BY STANDARDIZED RATES PER 100,000 POP. 95% CL



Source: Mele A. Look, A Mortality Study of the Hawaiian People, R & D Report, Issue No. 38 (Honolulu: Hawaii State Department of Health, Research and Statistics Office, 1982), p. 8.

CHART 6

NATIVE HAWAIIAN POPULATION
1900-1960
(in thousands)



Source: Schmitt, p. 120.

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DEMOGRAPHICS

NOTES

1/ State of Hawaii, Office of the Governor, "Fact Sheet," April, 1981.

2/ As noted in the text, the Native Hawaiians Study Commission utilized data from a variety of sources. It was hoped, when the Commission began its work, that all 1980 Census data would be available to it before the statutory submission deadline for its Final Report. In fact, some U.S. 1980 Census date was made available by the Bureau of the Census via a special tabulation completed for the Commission (see "Housing" chapter). However, due to technical problems with the 1980 Census, the publication date for the more detailed information (by State and by ethnic group) was not available to the Commission before the printing deadline for the Commission's Final Report. However, in anticipation of this problem and as a result of comments received by the Commission on its Draft Report, the data that do appear in this Final Report are the most recent available--whether from State or Federal sources. A comparison of the historical trends in the text and the most recent data (most only 3 to 5 years old) available suggest that these trends could be expected to continue, even if 1980 Census data were available. As a summary, the following list presents the subject areas for which statistical data appear in this Final Report, and the latest year for which information was available to the Commission. With one exception, none of the data is dated before 1975, and two-thirds of the statistics are dated at least 1980. The areas where statistical data for native Hawaiians are presented are as follows:

Population	1980
Age/sex statistics	1980
Education	1977
--Educational workforce	1980
--U. of Hawaii enrollment	1982
Employment status	1975
Occupation status	1975
Income	1977
Poverty level	1975
Welfare	1982
Criminal justice	1981
Health	
--infant mortality rates	1980
--characteristics of births	1980
--life expectancy	1970
--leading causes of death	1980
--incidence of cancer	1973-80
--acute conditions	1980
--chronic conditions	1980
--substance abuse	1979
Interracial marriages	1980-81
Housing characteristics	1980

3/ Robert C. Schmitt, *Demographic Statistics of Hawaii: 1778-1965* (Honolulu: University of Hawaii Press, 1968). Robert C. Schmitt reviewed the Commission's Draft Report, made several comments on corrections (all of which were incorporated) and noted that: "Notwithstanding these errors, the demographic, statistical, and historical aspects of the study have been handled reasonably well, reflecting a satisfactory degree of competence and objectivity" (p. 3). Another comment received by the Commission disputes the relevance of the statistical section of the study. Congressman Cecil Heftel states:

> Similarly the statistical compilations of the draft may have some uses but do not describe or define Hawaiians. To judge Hawaiians today in juxtaposition with their contemporaries may locate them on

some socio-economic scale, but does not answer the crucial question: How true are their lives to native Hawaiian culture and values?

It is not enough to look back a century and reach certain conclusions, not enough to probe the past with modern statistical tools, unless you also are able to evaluate the Hawaiian experience and ethics against a Hawaiian concept. What may appear undesirable in one culture can have a logical explanation in another. To do a total, meaningful summation of Hawaiians, it will be necessary to measure them against Hawaiian values (pp. 1-2).

4/ Schmitt, pp. 18-22.

5/ Ibid., p. 16.

6/ Ibid., p. 68.

7/ Ibid., p. 114.

8/ Public Law 96-565, 96th Congress (94 STAT. 3321), Title III, Section 305, December 22, 1980.

9/ There was some confusion on definitions used in the Commission's Draft Report since these terms were not always used consistently (see comment by Herbert Jay (Nahaolelua) Almeida). An attempt has been made to correct that situation.

10/ Schmitt, p. 37.

11/ Adams, quoted in Schmitt, p. 37.

12/ Irene B. Taeuber, "Hawaii," Population Index 28 (April 1962):98.

13/ Schmitt, p. 39.

14/ Andrew W. Lind, Hawaii's People, 3rd ed. (Honolulu: University of Hawaii Press, 1967), p. 7.

15/ Ibid., pp. 17-19.

16/ Neil Levy, "Native Hawaiian Land Rights," The California Law Review, Volume 63 (July 1975): 849.

17/ Ralph S. Kuykendall, The Hawaiian Kingdom, Volume I, 1778-1854, Foundation and Transformation (Honolulu: University of Hawaii Press, 1968), pp. 88-89. [Hereinafter cited as "Kuykendall, Volume I."]

18/ Ralph S. Kuykendall and A. Grove Day, Hawaii: A History, From Polynesian Kingdom to American Commonwealth (New York: Prentice-Hall, Inc., 1948), p. 42.

19/ For example, see Taeuber, p. 98 (cited above); Kuykendall and Day, p. 43; Kuykendall, Volume I, pp. 89-90; Schmitt, p. 36; Adams, p. 7. This paragraph was revised as the result of a comment by Congressman Daniel Akaka, who states: "The claim that 'social disruption' was caused by Kamehameha I becoming the prime agent for the sandalwood trade is made without substance (p. 19-20). Where is the evidence for such a claim? There is no citation to indicate the source for this conclusion. Without an identification of both the source and the justification for its conclusion, I find the statement implausible since it suggests that the Hawaiians are to blame for their own demise" (p. 3).

20/ Taeuber, p. 108.

21/ Romanzo Adams, Interracial Marriage in Hawaii: A Study of the Mutually Conditioned Processes of Acculturation and Amalgamation, reprinted from 1937 ed. (New York: AMS Press, 1969), pp. 31-32.

22/ Lind, p. 45.

23/ Ibid., p. 47.

24/ Quote in comment received by the Commission from Haunani-Kay Trask, et al., p. 6.

25/ Adams, p. 55.

26/ Kuykendall, Volume I, p. 106.

27/ Ibid., p. 110.

28/ Lind, p. 88.

29/ Ibid., p. 91.

30/ See comment by Haunani-Kay Trask, et al, p. 6.

31/ Andrew N. White and Marilyn Landis, The Mental Health of Native Hawaiians, Report Compiled for Alu Like, Inc. (September 1982), Table 3.9, p. 78. Data in this table from Hawaii Health Surveillance Program results.

32/ Comment by Violet Ku'ulei Ihara.

33/ White and Landis, Table 3.9, p. 78.

34/ Alu Like, Inc., "Information Presentation for the Native Hawaiian [sic] Study Commission" (January 9, 1982).

35/ Winona Rubin, Testimony Presented to the Joint Public Hearing of the [Hawaii] House and Senate Committees on Education (July 31, 1982, Honolulu), p. 1.

36/ Ibid., p. 2.

37/ Ibid., pp. 1-2. This paragraph added to Final Report as a result of comments received from Congressman Daniel Akaka, p. 4.

38/ Revised from Draft Report at suggestion of comments from Haunani-Kay Trask, et al, p. 6.

39/ Lind, p. 66.

40/ Ibid., p. 67.

41/ Ibid.

42/ Louis Agard, The Sandalwood Trees: Politics and Hope, p. 16. (Received by the Commission from John Agard.)

43/ Lind, p. 76.

44/ Ibid., p. 79.

45/ Ibid.

46/ Lawrence H. Fuchs, Hawaii Pono: A Social History (New York: Harcourt, Brace & World, Inc., 1961), p. 69.

47/ Lind, p. 79.

48/ Adams, pp. 243-247.

49/ Lind, pp. 81-83.

50/ U.S. Department of Commerce, Bureau of the Census, Census of the Population: 1970; General Social and Economic Characteristics, PC(1)-C1 (Washington, D.C.: U.S. Government Printing Office, 1972), pp. 500-501.

51/ Attachments to letter sent from Lloyd Aubry, Special Assistant to the Assistant Secretary of Policy, Evaluation and Research, U.S. Department of Labor, to Carl A. Anderson, Commissioner, Native Hawaiians Study Commission (April 1982). Note: Hawaii Data Book, p. 255, gives State rate of 10.3 percent for 1976.

A comment received by the Commission from Louis Agard notes that this relatively low unemployment rate for the State of Hawaii may be misleading: "Low unemployment rates in Hawaii do not necessarily mean high job opportunities are available in Hawaii... While employment appears high because the unemployment rate is low at 6%, the fact is that a surplus of labor is evidenced by higher wages on the mainland U.S. than in Hawaii in nearly every instance" (p. 46).

52/ 1975 Office of Economic Opportunity, Special Sample; in University of Hawaii, *Report to the 1982 Legislature in Response to H.R. 509, Requesting the University of Hawaii to Study the Underrepresentation of Ethnic Groups in the Student Population of the University System* (November 1981), Table 23.

53/ Lind, p. 99.

54/ Comments received from Haunani-Kay Trask, *et al*, p. 7; Robert C. Schmitt, Hawaii State Statistician, p. 1; and Hideto Kono, Hawaii Department of Planning and Economic Development, p. 1.

55/ Comments received from Haunani-Trask, *et al*, p. 7.

56/ Hawaii Health Surveillance Program, *Population Report Number 11* (Honolulu: Hawaii State Department of Health, 1979); cited in White and Landis, Table 3.14, p. 83.

57/ Comment received from Franklin Y. K. Sunn, Director, State of Hawaii Department of Social Services and Housing (DSSH). DSSH also updated the table on welfare for the Commission.

58/ The Commission received a comment from the Hawaii State Department of Social Services and Housing that states the following with regard to these findings: "The view expressed in this summary appears somewhat paradoxical, inasmuch as the low income status (perceived as 'dismal' in the summary) of some native Hawaiians could also have been the result of individual choice, i.e., for a 'back-to-the-land,' shun western materialistic cultures kind of approach. (This is an approach espoused by many Hawaiian activist organizations.) The question, then, is from whose perspective is this summary statement made?" (p. 2). A similar comment was made by Louis Agard (p. 50): "Mostly it is important to remember that many if not the majority of native Hawaiians enjoy a more simple lifestyle and therefore are considered at the poverty level in Hawaii society. This is the lifestyle they have selected to enjoy. Rather than the accumulation of material things native Hawaiians are more interested in the justice of sharing. But native Hawaiians have been obliged to conform to other standards and must fend for themselves in the system."

59/ Comments received from Robert C. Schmitt, Hawaii State Statistician, p. 2; Haunani-Kay Trask, *et al*, p. 7; and Franklin Y. K. Sunn, Director, State of Hawaii Department of Social Services and Housing, pp. 2-3.

60/ Comments by Schmitt.

61/ *Ibid*.

62/ State of Hawaii, Hawaii Criminal Justice Information Center, *Crime in Hawaii 1981; A Review of Uniform Crime Reports* (April 1981), p. 39.

63/ If the Hawaii Health Surveillance Program data on population had been used, the exceptions, besides manslaughter and gambling, would include larceny-theft and drug abuse.

64/ See comments submitted to the Commission. Haunani-Kay Trask, et al, states that figures on incarceration are "crucial since they reveal racism in sentencing and other judicial policies as well as the overall state of oppression of Hawaiians" (p. 7). Louis Agard writes that: "[High arrest rates for native Americans] support the charges of oppression by the use of racism, and minority groups must conform to those very laws and social practices designed to maintain their subjugation" (p. 30).

65/ Mental health is not discussed in this section; it is extensively discussed below in the "Health and Social Services" chapter.

The entire section on Health in this chapter was substantially revised from the Commission's Draft Report, primarily as a result of extensive comments received from Thomas A. Burch, M.D., Chief, Research and Statistics Office, Hawaii State Department of Health. The Commission is grateful to Dr. Burch for the time and effort he expended in updating many of the statistics in this section. Dr. Burch also reviewed the revised draft before publication of the Final Report.

Readers should be aware that the Hawaii State Department of Health data used in this section is not comparable to data from the U.S. Census Bureau. The collection method for Hawaii State Department of Health data is as follows:

> The race recorded on vital statistics records at the Department of Health--birth, death, and marriage certificates--is based entirely upon voluntary information and, hence, cannot be considered as indicating true genetic relationships.
>
> The race of a child is determined from the race of the parents entered on the birth certificate in accordance with the following policies which are based upon the procedure used by the Bureau of the Census on those censuses conducted prior to 1970. If the race of both parents is the same, the child is coded as that race. If the race of both parents is not the same and either parent is designated Hawaiian or Part-Hawaiian, the child is coded Part-Hawaiian. If either parent is designated Negro or Black, the child is coded Negro. In all other mixtures, the child is coded according to the race of the father. Illegitimate births are coded according to the race of the mother.
>
> The races coded on a marriage certificate are whatever race the bride and groom recorded when they obtained their marriage license. The race on a death certificate is whatever race the informant gave the funeral director who prepared the death certificate.
>
> The race of an individual included in the department's household health survey is coded in accordance with the above criteria based on the race of the individual's parents as furnished by the respondent. Individuals whose perents are of different races are coded either Part-Hawaiian or Other Mixture depending upon the racial mix.
>
> The race item on the 1970 and 1980 United States decennial census was based entirely upon self-identification as a single race so that it is no longer possible to get counts of racial mixtures from the census. The race items from the 1970 and 1980 census are not comparable with the race designations of the Department of Health--or any other race statistics collected in Hawaii. (Communication received from Dr. Thomas A.

Burch, Chief, Research and Statistics Office, State of Hawaii, Department of Health, dated January 13, 1983. Hereinafter referred to as "Burch, Hawaii State Department of Health.")

66/ Comment received from Robert C. Schmitt, p. 2. Also mentioned in comment received from Richard Kekuni Blaisdell, p. 1.

67/ The remainder of this paragraph based on information provided by Richard Kekuni Blaisdell, p. 2.

68/ Department of Health, State of Hawaii, Annual Report, Statistical Supplement, 1980, September 1981, p. 19.

69/ *Ibid*., p. 9.

70/ The information on infant death rates that appeared in the Commission's Draft Report was substantially revised as the result of comments received from the Hawaii Department of Health. This quotation is from Burch, Hawaii State Department of Health.

71/ Comments received from Richard Kekuni Blaisdell point out that in examining cause of death over time the reader should be aware that the data will not be strictly comparable since "concepts of illness and diagnostic criteria for 'diseases' vary with time and recorder" (p. 3). The Hawaii Department of Health has produced a study in which death certificates from 1910 to 1960 were re-coded using current classification of diseases to attempt to address this problem, and it is this data that is used in the Mele A. Look study discussed below.

72/ Information provided to the Commission by Dr. Burch, Hawaii State Department of Health. Comments from Richard Kekuni Blaisdell also suggested including such information.

73/ Mele A. Look, A Mortality Study of the Hawaiian People, R & S Report, Issue No. 38 (Honolulu: Hawaii State Department of Health, Research and Statistics Office, February 1982).

74/ The list presented here is taken from Look's study. Comments received from Richard Kekuni Blaisdell suggest the following reasons: "lower income level; inadequate health care; different cultural concepts of health and illness" (p. 3). See also, by Blaisdell, paper entitled, "Health Section of Native Hawaiians Study Commission Report," written at the direction of and funded by the Office of Hawaiian Affairs. This paper is reproduced in the comments section of the Appendix of this Report.

75/ This section contributed by Dr. Burch, Hawaii State Department of Health. Comments from Richard Kekuni Blaisdell also suggested including such information.

76/ Other data on the health status of native Hawaiians exist that have not been included in this report, but that confirm that the native Hawaiian population has special health problems. For example: data on the highest incidence of coronary atherosclerotic heart disease in Hawaiians/Part-Hawaiians; data on the highest prevalence of end-stage renal disease (kidney failure) in Hawaiians; data on congenital/inherited disorders, such as the highest incidence of club-foot among Hawaiians; data on the highest rates of teen-age pregancies among Hawaiian girls; data on elderly Hawaiians, such as published by Alu Like, indicating that 75.9% of Hawaiians vs. 66.3% of non-Hawaiians over 65 years of age stated they had major chronic illnesses; data on medical care, such as cited by Alu Like, that 15.7% of Hawaiians over 60 years had no health insurance vs. 9% of non-Hawaiians; data on the relative paucity of Hawaiian health professionals. (See Appendix, comment by Richard Kekuni Blaisdell and paper by Blaisdell on "Health Section of Native Hawaiians Study Commission Report" for complete references to these data and studies.)

77/ Hawaii State Department of Health, *Annual Report, Statistical Supplement, 1980*, p. 60.

78/ Information received in comment from Richard Kekuni Blaisdell, p. 3. Information he presented is from a study by Alu Like, Inc., entitled, *Mortality and Morbidity of Native Hawaiians*, 1977.

79/ Hawaii State Department of Health, *Needs Assessment; Alcohol and Drug Abuse* (Honolulu: Hawaii State Department of Health, Alcohol and Drug Abuse Branch, 1980), p. 2.

80/ *Ibid.*, p. 1.

81/ *Ibid.*

82/ *Ibid.*, p. 8.

83/ *Ibid.*, p. 9.

84/ *Ibid.*, p. 10.

85/ *Ibid.*, p. 14.

86/ *Ibid.*, p. 17.

87/ *Ibid.*, pp. 18-19.

88/ *Ibid.*, p. 23.

89/ *Ibid.*, p. 26.

90/ *Ibid.*, p. 29.

91/ *Ibid.*, pp. 36 and 42. For mental health data, see chapter below entitled, "Health and Social Services."

92/ Adams, pp. 43-44.

93/ *Ibid.*, p. 44.

94/ *Ibid.*, p. 47.

95/ Lind, p. 109.

96/ *Ibid.*, p. 62.

97/ Louis Agard, *The Sandalwood Trees: Politics and Hope*, p. 50; Haunani-Kay Trask, *et al*, p. 8.

98/ Adams, p. 44.

99/ Louis Agard, p. 50.

100/ *Ibid.*, p. 51.

101/ For versions of this episode see, for example: comment received from Louis Agard, p. 51; Kuykendall and Day, p. 221; Fuchs, pp. 189-190; and Gavan Daws, *Shoal of Time: A History of the Hawaiian Islands* (New York: The MacMillan Company, 1968), pp. 317-327.

102/ Fuchs, p. 189.

103/ *Ibid.*

104/ *Ibid.*, p. 190.

105/ William Adam Russ, Jr., *The Hawaiian Republic 1894-1898* (Selinsgrove, Pa.: Susquehanna University Press, 1961), p. 20.

106/ *Ibid.*, p. 21.

107/ *Ibid.*, p. 26.

108/ Daws, p. 281.

109/ Russ, *The Hawaiian Republic*, p. 33.

110/ *Ibid.*, p. 34.

111/ *Ibid.*, p. 32.

112/ *Ibid.*

113/ Daws, p. 281.

114/ Russ, *The Hawaiian Republic*, p. 46.

115/ *Ibid.*

116/ Daws, p. 294. The above section on voting requirements in the Republic of Hawaii was extensively revised in response to comments by Congressman Daniel Akaka (p. 4) and Haunani-Kay Trask, *et al* (p. 8).

117/ Fuchs, p. 161.

118/ Lind, p. 96.

119/ Comment by Herbert Jay (Nahaoleiua) Almeida says that: "The report fails to recognize that ethnic bloc voting has had an impact on politics in Hawaii. The AJA (Americans of Japanese Ancestry) population, for instance, was a significant factor in the 1968 Gubernatorial race results (See *To Catch a Wave*)" (p. 2). Haunani-Kay Trask notes that to say that candidates for political office are not helped by appealing to ethnic groups is "a falsehood since elections are constantly characterized by ethnic appeals; in modern Hawaii these appeals have been to the growing Japanese electorate" (pp. 8-9).

120/ Fuchs, pp. 347-8.

121/ *Ibid.*, p. 348.

122/ *Ibid.*, p. 349.

123/ *Ibid.*

124/ *Ibid.*, p. 350.

Health And Social Services

A. INTRODUCTION

Since a wide variety of health statistics for native Hawaiians and for the State of Hawaii were presented in the previous chapter, they will not be repeated here. Instead, this chapter will focus on the historical and cultural background of native Hawaiian health; and the State and federal programs that exist to address the health needs of all residents of the State, as well as programs specifically for native Hawaiians.

The Hawaii State Health Department administers a wide range of programs emphasizing health maintenance and promotion, risk reduction, and preventive services. 1/ Total expenditures by the Department for the fiscal year ending June 30, 1980, were $116,368,576. The Federal Government provided 12.1 percent of this amount, or $14,055,526. The various programs available to address health needs are described below. Descriptions include the services provided, the community served, and the problems encountered.

B. HISTORICAL AND CULTURAL BACKGROUND */

Critical historical events and unique cultural features influencing the health and illness of native Hawaiians are conveniently considered in three periods: before contact with the non-Polynesian world; contact, beginning with Captain James Cook in 1778 to the overthrow of the monarchy in 1893; and the end of the kingdom to the present.

Pre-contact (Ancient to 1778)

Health and Illness

Prior to and at the same time of the arrival of Captain Cook in January 1778, the Hawaiians of old were generally healthy because they had adapted effectively to island ecosystems about them, and they had lived in isolation from the rest of the planet for over 500 years. 2/ Gene strength was evident in a flourishing population of an estimated 300,000 at the time of Captain Cook. 3/ These were descendants of perhaps one hundred hardy, first settlers who had arrived more than 1,000 years previously from the South Pacific, after braving over 2,000 miles of open sea in double-hulled canoes. Some gene weakness was possible because of

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*/ The following section on historical and cultural background is a complete reproduction of a section of the paper prepared by Richard Kekuni Blaisdell, M.D., entitled: "Health Section of Native Hawaiians Study Commission Report" (pages 1 through 18, February, 1983), written at the direction of and funded by the Office of Hawaiian Affairs. Dr. Blaisdell is a Professor in the University of Hawaii's Medical School. Minor editorial changes have been made to conform to the Final Report's format, and the footnotes have been redesignated for the convenience of the reader. Except for these changes, the section of Dr. Blaisdell's paper appears as submitted by OHA and is otherwise unchanged. The second part of Dr. Blaisdell's paper, "Health Profile," is not included here--it is consistent with the health data presented in the "Demographics" chapter of this Report, which incorporates previous comments submitted to the Commission by Dr. Blaisdell. Dr. Blaisdell's entire paper is reproduced in the Appendix of this Report and the references he used are marked with "[1]" in the "List of References."

the small gene pool, inbreeding, and opportunities for genetic drift. 4/ These genetic factors could account for congenital-hereditary deformities described below, and for the impaired immunity and peculiar hypersusceptibility to disseminated infections that characterized the later contact period.

The natives' food was mainly taro, sweet potato, yam, bread-fruit and banana, with fish, and for the maka'ainana (commoners), only infrequently pig and dog. This high-fibre, low-fat, unrefined and limited sugar diet ample in vitamins and abundant in minerals, is now considered superior to the usual fare of modern western societies, with one important common fault--excessive sodium. 5/ This is a basis for inferring that the natives of old probably also had some arterial hypertension and related disorders, as shall be discussed later.

Personal, household, and public cleanliness of the early Hawaiians are well documented 6/ and were strictly controlled by kapu (sacred law) of the kahuna (priests). 7/ Physical activity in work and play was vigorous and enjoyable, and yet with adequate time for sleep and rest. 8/

There were no crowding, no public latrines, no garbage heaps or litter, and no use of human or animal excreta as fertilizer. Because of clean air, pure water, and unpolluted land and sea, promoted by the kapu, natives unknowingly maintained control of potentially harmful pathogenic microorganisms. 9/

The natives were free of the epidemic, contagious pestilences that scourged the continents in recurring waves for thousands of years. However, the islanders did have some focal infections as evidenced in pre-contact skeletons recovered from burial sand dunes. 10/ Dental caries, which result from acid-producing mouth bacteria acting on carbohydrate-containing foods, occurred in less than 7 percent of those under age 40, to 51.5 percent in persons over the age of 60--frequencies much lower than those observed today. 11/ Some bone abscesses were also evident, such as in the maxilla or mandible, as extensions from dental pulp infections. 12/ "Boils" were also described in Cook's journals. 13/ Thus, the early Hawaiians were not entirely free of pathogenic organisms, as some have claimed. 14/

Metabolic maladies, so prominent in native Hawaiians today, were probably also present in their ancient ancestors. However, the evidence is largely indirect and their frequencies remain uncertain. The direct evidence is also to be found in unearthed bones, which show examples of gouty arthritis, degenerative arthritis, and rheumatoid arthritis. 15/ Common soft tissue disorders, such as coronary atherosclerotic heart disease, arterial hypertension, stroke, chronic obstructive lung disease, diabetes mellitus, and end-stage renal disease, are presumed to have occurred in pre-Cook Hawaiians because heredity appears to play some role in these diseases so prevalent in native Hawaiians today. 16/ However, since the life-style factors of the maka'ainana did not include a high-fat diet, cigarette smoking, physical inactivity, and appressine stress, the frequencies of these "diseases of civilization" in the early Hawaiians were probably less than today. No signs of nutritional deficiencies, such as rickets and scurvy, are apparent in the osseous materials. 17/

Evidence of metastatic cancer to the bony spine has been seen in one pre-contact specimen, 18/ but no obvious cases of neoplasm were described in Cook's journals.

Trauma from accidents or intentional violence was probably the most common class of ailments, as recorded in writings, 19/ and as observed in skeletal remains. 20/ "Poisoning" may have been due more to psychic effects 21/ than to direct pharmaceutical toxicity, because the pre-contact islands apparently had no lethally poisonous plants. 22/ The only type of chemical self-abuse known in old Hawaii was "*kava* debauchery," described among some *ali'i* in Cook's journals. 23/

Mental illness was described in the form of two natives who were "wrong in their senses" in Cook's journals. 24/ This single passage contrasts with frequent other references to the islanders being "social, friendly, hospitable, humane," "blessed with frank and cheerful disposition," and "mild and agreeable, not easily excitable," 25/ which support the views of subsequent foreigners that the natives were adept at coping with stress. 26/

Congenital-hereditary disorders were apparent to Cook's men in a young man "born with neither feet nor hands," another "born blind," and two dwarfs. 27/ Four cases of club foot were found among the 1,117 pre-contact persons buried at Mokapu. 28/ The described defects were probably related to inbreeding. The survival of these malformed natives beyond infancy counters the later claims by missionaries that infanticide was traditional and widely practiced. 29/ Cook's journals record the Hawaiians as being "totally unacquainted with [Tahitians'] horrid custom of destroying their newborn infants." 30/ The natives prized physical beauty and practiced body molding of the infant and child. 31/ Some degree of infanticide of the severely deformed newborn may have been practiced, but there were no illegitimate births in the modern sense, and generally every child was *he pua* (a flower) to be cherished, assuring continuity of the heritage and race. 32/

Medical Beliefs and Practices

Health and illness were another example of the all-pervading dualism of the early Hawaiians' belief system, like sky and earth, sun and moon, male and female, mind and body, and life and death. 33/

Wellness was maintaining *mana*, quantifiable energy, which was both inherited and acquired. Proper balance of *mana* was promoted by harmony with oneself, with others, and with the gods and nature, through continuous communication with the spiritual realm and correct thought and action. 34/ The *kapu* (taboo), established by the *kahuna* (priests), sanctioned by the *ali'i*, and enforced by all, fostered self-discipline and responsibility in personal hygiene, health-promotion, illness-prevention, public sanitation, and respect for nature, which was the domain of the gods. 35/ Illness was loss of *mana* from dysharmony, such as from violation of a *kapu*, offending a god, or ill-thinking. 36/

The elderly were esteemed. Death after a meaningful life was welcomed as a reuniting with one's ancestors in the eternal spiritual realm and completion of a recurring cycle of rebirth and transfiguration into *kinolau* (non-human forms) or reincarnation into other human forms. 37/

Diagnosis was determining the mechanism of loss of mana through psycho-spiritual communication, interviewing of the patient and his 'ohana (family), and physical examination. 38/ Treatment was restoring deficient mana through ritualistic communication with the psycho-spiritual realm of the gods, supplemented by special foods, secretly formulated herbals, physical therapy and limited surgery. 39/

Medical care for the commoner was the responsibility of the patient himself, and, if necessary, an experienced 'ohana elder. Only if the illness were serious, and expensive professional fees in hogs could be paid, did a maka'ainana engage the fastidious kahuna lapa'au (priest-physician), rigorously trained at the heiau ho'ola (healing temple). 40/ The ali'i had regular access to varieties of specialty kahuna lapa'au whose rituals and practices were elaborate and extensive. 41/

The Hawaiians' autopsy observations, 42/ use of the clyster-enema, 43/ and emetics and cathartics 44/ provide evidence of beginning experimentation and scientific reasoning not found elsewhere in Polynesia. 45/

This highly-refined, holistic and preventive health system, harmoniously integrated in their social fabric, with nature about them, and their spiritual realm beyond, was never to recover from the impact of western ways.

Contact (1778 to 1893)

Depopulation

Infections: In January 1778, the arrival of the first foreigners, Captain Cook and his seamen, brought medical disaster in the form of the venereal diseases, mainly gonorrhea and syphilis, tuberculosis, other common contagious bacterial viral illnesses, as well as alcohol, gunfire, and other forms of disrespect for the kapu, the gods, and nature. One year later, in March 1779, when these first visitors departed, the natives could see from the sick and dead about them, that "the sliding way of death" had begun. 46/

In 1804, the diarrheal epidemic of ma'i 'oku'u (probably cholera or typhoid) killed perhaps 15,000, 47/ and convinced Kamehameha the Great that the gods did not favor his military invasion of the island of Kauai. 48/

Subsequent sporadic "catarrhs and fevers" took other lives, so that by 1820, when the first missionaries landed, the population estimate of 150,000 was half that at the time of Cook, about 40 years previously. 49/ Other outbreaks of disease occurred as follows:

- In 1824, Kamehameha II and his sister-wife Queen Kamamalu died of measles in London. 50/
- In 1824-1826 and again in 1832, epidemics of cough (whooping?) and measles killed thousands of natives. 51/
- In 1839, mumps killed "great numbers" including Kina'u, kuhina nui (regent), daughter of Kamehameha the Great, and mother of Kamehameha IV and V. 52/
- In 1845-1849, epidemics of measles and pertussis and then diarrhea and influenza left over 12,000 dead. 53/
- In 1840, the first case of leprosy in a Hawaiian was detected. 54/ In 1865, because of the alarming spread of this fearsome malady, a new

segregation law established a receiving leprosy hospital in Honolulu and isolation of lepers on the Kalaupapa peninsula of the island of Molokai. 55/ One out of every 39 (2.6 percent) of native Hawaiians was affected, whereas the occurrence in non-Hawaiians was one in 1,847. 56/ A peak of 1,310 active cases was reached at the end of the century, and over the 40 years since the start of segregation, an estimated 4,000 natives died of this affliction. 57/

- In 1853, 1861, 1873, and again in 1882, smallpox took over 7,000 lives, in spite of compulsory smallpox vaccination in 1854. 58/
- In 1857, an epidemic of colds, headache, sore throat, and deafness (influenza?) raged. 59/
- In 1866, cough, chills, fever, vomiting, nose bleeding, and disability (dengue?) affected hundreds.
- In 1876-1880, whooping cough brought death to 68 in Honolulu. 60/
- In 1888, whooping cough struck again with 104 lives, and in 1890 diphtheria. 61/
- In 1889-1890, measles and dysentery killed 26. 62/
- By the time of the overthrow of the monarchy in 1893, the native Hawaiian population was reduced by 87 percent to about 40,000. 63/

Lack of Immunity, Genetic and Other Factors: Multiple factors probably accounted for the steep logarithmic decline in the population of the pure Hawaiian. 64/ Introduced infections, as cited above, in a people who lacked immunity because of their long isolation, not only explained high and irregular direct mortality, but could also explain the decreased birth rate. Local, genital, venereal, and other infections, and general, systemic infections probably impaired fertility in both men and women, increased early and late fetal deaths *in utero*, and contributed to neonatal and infant mortality, through indirect general debility and malnutrition. 65/

Latent genetic defects could have predisposed to reduced birth rates, 66/ and probably account for the natives' hypersusceptibility to chronic infections, aside from impaired immune mechanisms, such as in leprosy and tuberculosis. 67/

Other chronic metabolic illnesses, not readily or specifically diagnosable, especially among the *maka'ainana*, but related largely to conflicting life-styles, were probably also taking their toll. These disorders include arterial hypertension, atherosclerosis, heart, kidney, and lung failure, stroke, and diabetes, so prevalent among modern Hawaiians. 68/

Among the *ali'i*, these terminal illnesses were identified as follows: in 1854 Kamehameha III died at age 42 of convulsions and delirium that could have been a stroke; in 1863 Kamehameha IV died with asthma at the age of 29; in 1872, at the age of 42, Kamehameha V succumbed of "buttock abscess, dropsy and asphyxia;" in 1883, Princess Ke'elikolani died at age 57 of heart failure; in 1884, Queen Emma died of stroke at the age of 49; and in 1891, King Kalakaua died at the age of 54 of "Bright's disease" (kidney failure). 69/

Despair: Cultural conflict resulted in disintegration of the old social order. In 1819, despairing because the *kapu* were no longer effective, the Hawaiians themselves, under the leadership of Kamehameha II, Queen Kaahumanu, and High Priest Hewahewa, formally abolished these strict sacred laws that governed personal hygiene and public sanitation. 70/ Gross pollution of person, home, the land, and water followed, as described and decried by the missionaries and other foreigners. 71/ There was decline of *ali'i* leadership and stewardship as the chiefs sought material luxury by exploitation of the *maka'ainana* in sandalwood and other trade with foreigners. 72/

With alienation from the land came disruption of the *'ohana* and replacement of their traditional self-reliant, *ahupua'a* subsistence economy by an urban market economy. The *kahuna* and *'ohana* educational systems disintegrated. New social ills emerged, such as alcoholism, tobaccoism, vagrancy, prostitution, and the malnutrition of processed foods. Finally, there was the perception by the native Hawaiians, preached by the missionaries, of the "superiority" of certain western ways and material culture, compared to native "primitive" beliefs and practices. The stress was too overwhelming for many islanders. Some fled, like an estimated 5,000 out-migrating Hawaiians in 1850. Others despaired inwardly, lost their will to live in a *haole*-dominated new order that made them strangers in their homeland, as they sought the comfort of death. 73/

Inadequacy of Traditional Native Medicine for Haole Illnesses

In this period of culture shock, there evolved a makeshift, loose health care system for native Hawaiians with the following characteristics.

Although the major gods had been toppled, and the *kahuna* hierarchy abolished, the *kahuna lapa'au* remained underground. These officially disenfranchised *kahuna*, plus experienced *'ohana* elders, and the patient himself, continued to care for "Hawaiian illnesses" as of yore, but with some modifications. 74/

Newly-introduced plants, such as the guava and eucalyptus, were incorporated into the native materia medica. Some western notions of disease and the pharmaceutical action of herbals on body functions were adopted, therapeutic effects that were *not* mediated by the traditional native concept of restoration of *mana*. However, there was still some reliance on *aumakua*, or family guardians, although the senior gods had departed. 75/ As the *heiau ho'ola*, as well as the other *heiau*, were destroyed, formal training of *kahuna* ceased. They were replaced by more self-styled, poorly-trained or untrained "*kahuna*," many of whom incurred the denunciation of missionaries, other foreigners, and even some native Hawaiians. 76/

"Hawaiian medicine for Hawaiian disease" probably survived because at that time, *non*-Hawaiian medicine was no more effective. Psycho-spiritual aspects of native medical care merged with new beliefs, such as Christianity, sometimes confusingly so, or were abandoned so that little of the old liturgy found its way into print when the natives learned how to write. 77/

Haole illnesses, such as gonorrhea, syphilis, cholera, diphtheria, measles, mumps, smallpox, and tuberculosis, did not respond to Hawaiian medicine, and since there were too few *haole* physicians initially to demonstrate that *haole* medicine was no better, some natives tried whatever was called *haole* medicine. 78/

Ascent of Haole Medicine

Haole surgery, however, was perceived as generally superior, with metal instruments, instead of bamboo or adzes, for resections, incision, and drainage of abscesses, and the techniques of suturing and ligature to arrest bleeding and promote wound healing. 79/

Western public health measures replaced the old kapu system, but initially they, too, did not seem any more effective against the devastating contagious epidemics. Key events in this area include:

- In 1836, kuhina nui Kina'u was advised to issue the first public health proclamation--the Honolulu harbor pilot was instructed to screen all foreign-arriving vessels for smallpox and other pestilences. 80/
- In 1850, Kamehameha III created a Board of Health, and the first public water pipeline carried fresh water from Nu'uanu Valley to Honolulu harbor to fill water casks. 81/
- In 1854, smallpox vaccination was made compulsory, but three smallpox epidemics followed, the latest in 1882. 82/
- In 1856, a drug law for western medications was passed and the "Hawaiian Medical Society" for haole physicians was chartered. 83/
- In 1859, the Queen's Hospital, providing western medical care, was founded by King Kamehameha IV and Queen Emma. It was the first hospital for native Hawaiians, 22 years after the first of seven hospitals had been opened for foreigners. 84/
- In 1862, the first Sanitation Commission was appointed. 85/
- In 1864, burial of the dead was regulated by law. 86/
- In 1865, the first receiving hospital for lepers opened in Kalihi, in Honolulu, with the kingdom's new segregation laws. The following year, the first lepers were exiled to Kalawao on the Kalaupapa peninsula on the island of Molokai. 87/ In 1890, the population of the settlement reached a peak of more than 1,200. There was no satisfactory therapy and the annual death rate varied from 12 percent to 20 percent. 88/
- In 1866, the first insane asylum opened in Palama, Honolulu, with six patients. 89/
- In 1868, during the reign of Kamehameha V, a "Hawaiian Board of Health" licensed practitioners of native medicine, but certain rituals of old were proscribed, and no formal training was authorized. 90/
- In 1870, ex-missionary and ex-Prime Minister Dr. Gerrit P. Judd was authorized by the Board of Education to establish the first medical school of western medicine. Two years later, ten young native graduates were licensed to practice haole medicine, but shortly thereafter Dr. Judd had a stroke and the school was closed. 91/
- In 1873, collection of garbage and street-cleaning began in Honolulu. 92/
- In 1874, King Lunalilo died of "pulmonary consumption"

(tuberculosis) and alcoholism. His will provided for "a home for elderly infirm and destitute Hawaiians," which opened in Makiki in 1885. 93/

- In 1876, the legislature authorized drainage of taro wetlands that were declared "insanitary." 94/

- In 1879, the first artesian well for drinking, washing, and irrigation was drilled at Honouliuli, Oahu by James Campbell, founder of the large, landholding Campbell Estate. 95/

- In 1882, the first water filtration plant was constructed at Nu'uanu, in Honolulu. 96/ Inspection of food and licensing of dairies began in Honolulu. 97/

- In 1884, the first local government hospital, Malulani, was opened at Wailuku, Maui. 98/

- In 1886, the first plantation hospital at Makaweli, Kauai was built by the Hawaiian Sugar Co. By 1890, there were 18,900 plantation employees and four plantation hospitals. 99/

- In 1880, the government of King Kalakaua was so alarmed at the decline of the native Hawaiian population and the prevalence of squalor, insanitation, and morbidity, that the Board of Health issued a book in the Hawaiian language on Sanitary Instructions for Hawaiians, written by Walter Murray Gibson. 100/

- About the same time, the Ho'oulu a Ho'ola Lahui Society was founded by the king and Queen Kapiolani "to propagate and perpetuate the race." A home for destitute Hawaiians was established in Kaka'ako and the first Kapiolani Home for nonleprous children of leprous parents on Molokai opened next to the Kaka'ako Receiving Hospital. 101/

- In 1890, the Kapiolani Maternity Home for birthing of infants of native Hawaiian women opened in the renovated house of the queen's recently-deceased sister, Princess Kekaulike, in Makiki in Honolulu. 102/ This private hospital was supported by contributions. Native women were not required to pay for their medical care until 1917, when non-Hawaiians were first admitted. 103/

Overthrow of the Monarchy to the Present (1893-1983)

Population Changes

In 1893, with the dethronement of Queen Liliuokalani and the establishment of a non-elected Provisional Government by the haole business oligarchy, the native Hawaiians were already a minority in their homeland, although the pure Hawaiians still outnumbered the part-Hawaiians (see table in footnote). 104/ The controlling whites were the smallest minority, exceeded by the imported, non-voting Oriental laborers.

The contrast 90 years later, in 1983, is striking. Native Hawaiians are relatively an even smaller minority, with the part-Hawaiians far outnumbering the almost vanished pure Hawaiians. The white population has greatly increased, although still exceeded by all Orientals combined. 105/

Major Illnesses

Serious infections continued in the early post-kingdom period, as is evident in the following chronology, but with no reliable, readily available data on the numbers or proportions of pure and part-Hawaiians involved. The population figures cited above provide only rough guidelines for such speculative inferences.

- In 1895, with the oligarchical Provisional Government succeeded by the oligarchical Republic of Hawaii, cholera swept through Honolulu and killed 64. 106/
- In 1899, the bubonic plague took 61 lives. With the turn of the year, fire to control the plague-carrying rodents destroyed Chinatown in Honolulu, awakening public concern for the residual "filth, squalor...homeless, destitute and incurables," including more victims with tuberculosis that for the first time became reportable. 107/
- In 1901, when the Honolulu Home for the Incurables (forerunner of Leahi Hospital) opened, 32 of the first 72 patients had tuberculosis. 108/
- In 1903, when 900 known cases of tuberculosis were identified, about 32 percent were native Hawaiians. 109/ From 1900 to 1923, tuberculosis remained the number one reported "cause of death," with mortality as high as 200 per 1,000 population. The corresponding U.S. mainland tuberculosis mortality rate was declining from 152 to 92 per 1,000. By 1937, although TB mortality rates for all races in Hawaii had fallen to 88 per 1,000, the rates for pure Hawaiians remained high at 265 and for part-Hawaiians at 126, while the rate for whites was 23 per 1,000. 110/
- In 1918-1920, the post-World War I influenza pandemic accounted for 1,700 deaths in Hawaii. 111/ During the war years, venereal disease became reportable. 112/
- In 1919, typhoid killed 42. 113/ In this year, the leading reported "causes of death" were influenza-pneumonia, tuberculosis, and diarrheas. 114/
- In 1920, leprosy still claimed 662 active hospital cases at Kalaupapa, with 114 new cases for the year, the majority native Hawaiians. 115/ Not until sulfone chemotherapy in 1946 did the mortality rate drop from 10 percent to 2.5 percent per year. 116/ By 1974, there were only 13 active cases of leprosy, but over 100 deformed and disabled mainly Hawaiians, with the kidney, nerve, skin, nasal, oral, facial, and limb complications of this dreaded disorder. 117/ The 29 new leprosy cases for that year were chiefly in immigrant non-Hawaiians. 118/
- In 1928-1929, acute meningitis accounted for 68 deaths. 119/
- In 1930, for the first time, heart diseases displaced infections as the leading reported "cause of death." 120/
- In 1936-1937, measles deaths numbered 205. 121/

- In 1940, the highest-ranking recorded "causes of death" in the Territory were heart diseases, cancer, and kidney failure. 122/

- In 1942, during the second World War, diphtheria involved 90. The following year, mosquito-borne dengue affected scores. 123/

- In 1950, the top reported "causes of death" were heart diseases, cancer, and stroke. 124/

- In 1958, acute poliomyelitis struck 77. 125/

Health Measures

The following anti-disease actions parallel similar developments on the U.S. mainland, but with some features distinctive of Hawaii and the native Hawaiian people.

- In 1899, after the annexation of Hawaii to the United States as a territory, the first sewers were laid in Honolulu, then a city of 40,000. 126/

- In 1902, what is now Leahi Hospital opened on the mauka slope of Diamond Head in Kaimuki, Honolulu, as the Home for the Incurables, with four wards. It was a private institution created with contributions from nine wealthy businessmen of the haole oligarchy and $750 from the Board of Health. 127/ The proportion of tuberculous patients rose from 50 percent initially, to 100 percent in 1950, when the Territorial Government built a new hospital wing and assumed operating expenses for the hospital, with free medical care for TB patients. 128/ In 1968, the hospital became a State institution of the University of Hawaii School of Medicine. In 1976, it was transferred to the State Department of Health. 129/

- In 1908, the U.S. Congress generously provided $300,000 for the ambitious U.S. Leprosy Investigation Station on the Kalaupapa peninsula, Molokai. Only 9 of the 700 patients at the settlement agreed to participate in the Station's investigations, and then only for a few days, so the elaborate facility was compelled to shut down after only two years. 130/ In 1980, the U.S. Congress approved the recommendations of a commission that Kalaupapa be preserved indefinitely for the remaining leprosy patients there, and then become an historical and cultural reserve under the U.S. National Park Service. 131/ Active cases of leprosy are now treated at Leahi Hospital in Honolulu, but some patients are still championing the right to remain in the non-hospital, rural cottage setting of Hale Mohalu in Pearl City on Oahu. 132/

- In 1911, the first resident intern was appointed in Hawaii at the Queen's Hospital, a haole medical graduate from California. 133/

- In 1914, the first public health nurse was appointed by the Board of Health. 134/

- In 1916, the first school of nursing in Hawaii started at the Queen's Hospital. 135/

- In 1918, during World War I, venereal diseases became reportable. 136/

- In 1921, the Territorial Government established Waimano Home for the mentally-retarded and severely deformed. Statistics on the number of native Hawaiian patients institutionalized there are scheduled to be available in March 1983. 137/

- In 1925, the first maternal and child care programs were started by the Board of Health. 138/

- In 1930, the new Territorial mental health hospital opened at Kaneohe, Oahu with 541 patients. 139/

- In 1936, a Crippled Children's Bureau and Office of Health Education were created in the Board of Health. 140/

- In 1937, a separate Bureau of Vital Statistics was established. 141/

- In 1938, the Hawaii Medical Service Association (HMSA), a private health insurance firm, was founded by the Territory's school teachers and social workers. HMSA is now open to all and by 1975 it had over 400,000 members. 142/

- In 1967, the University of Hawaii School of Medicine accepted its first class of 25 students. None was a native Hawaiian. 143/

C. MENTAL HEALTH PROGRAMS

Mental Health Status of Native Hawaiians 144/

Native Hawaiians generally present the same variety and pattern of mental health problems as other groups in the State, according to a service and research project in Hawaii called Hale Ola o Ho'opakolea. 145 (The efforts of this group will be described below.) One main difference, however, is that the native Hawaiians have "that unique set of problems associated with indigenous peoples living under a non-indigenous government." 146/ For instance, immigrants who are non-English speakers have a choice, usually, of returning to their respective countries to maintain their linguistic, cultural, and other ties, while native Hawaiians have no choice but to remain in Hawaii. Some native Hawaiians "perceive themselves as citizens of an unfairly defeated nation [and] some see themselves as an oppressed people." 147/

Native Hawaiians are a unique cultural group with long-standing traditional patterns of personal, family, and social behavior that still contribute to the identity and security of individuals in their daily lives. As a result, the causes of mental health problems, their perceptions by native Hawaiians, and the appropriate means by which they are resolved differ markedly from non-Hawaiians. 148/ The Hale Ola Project summarizes the situation as follows:

> Pressures to successfully provide adequate income levels for families and stable jobs produce stresses among native Hawaiians and generate role and value

> conflicts, and present competing incentives to maintain cooperative, Hawaiian collective lifeways or to adopt more contemporary, competitive and individualistic lifeways associated with modern American lifeways. A significant part of the problem is perhaps that there are no real alternatives that one can freely turn to aside from the dominant Western lifestyle. A great deal of evidence has been accumulated in particular on how a native Hawaiian child who wants to retain the Hawaiian lifestyle is heavily penalized in the state educational system.
>
> Such conficts and stresses foster mental and emotional disorders among native Hawaiian families in particular. In addition, lower levels of formal education attainment and higher levels of unemployment and underemployment contribute to stresses and disorders...149/

Hawaii State Department of Health Programs

According to the Hawaii State Department of Health, the community's needs for mental health services exceed the available public and private resources, although the State is attempting to decrease the gap and make its services available to more people. The Mental Health Division of the Health Department now operates eight community mental health centers--five on Oahu, and one in each of the other counties (Hawaii, Maui, and Kauai). 150/ Many of these centers also operate satellite facilities to reach more people. The first ethnic-oriented mental health clinic, which is for Chinese-speaking persons, was opened in June 1980. A new program has also been funded to set up a network of community residential facilities.

The centers on the neighboring islands report some problems, mainly with manpower. The island of Hawaii has only one community residential facility for mentally-ill adults--with only four beds. The county hopes to expand the facility to twelve beds. Maui County reports that outpatient services are adequate in the Central Maui area, but are limited in West Maui, the South Shore and "up-country" areas, and on Molokai and Lanai.

In addition to its community mental health centers, the Mental Health Division also operates four specialized programs:

- Courts and Corrections, which provides mental health consultation to the State's court and correctional programs;
- Children's Mental Health Services;
- Hawaii State Hospital; and
- Alcohol and Drug Abuse.

The first three of these programs report problems of manpower availability that may restrict services.

The Alcohol and Drug Abuse program does not provide direct services itself. Through contracts with private agencies, the program allocates State and Federal funds to twenty-one drug abuse and alcohol programs statewide. The State program does provide technical assistance, research, and training to these local programs.

The Alcohol and Drug Abuse branch completed a statewide population survey of the incidence and prevalence of substance abuse in Hawaii. Preliminary data from the survey indicate that:

- Hawaii has a significantly higher percentage of people using cocaine (4.7 percent) than the U.S. mainland (two percent);

- Marijuana is used by a slightly higher percentage of people in Hawaii (14.4 percent) than on the U.S. mainland (13 percent); and

- The current non-medical use of sedatives is also slightly higher in Hawaii (1.2 percent) compared to the U.S. mainland (0.7 percent). 151/

Federally-Funded Programs

The Hale Ola Project is a service and research effort supported by federal funds from the National Institute of Mental Health and the Administration for Native Americans (under the U.S. Department of Health and Human Services). 152/ The Project is administered in Hawaii by Alu Like, Inc. and was initiated because it was found that "Western approaches to therapy and mental health care are not entirely suitable or appropriate for non-Western, including native Hawaiian, individuals with mental or emotional problems." 153/

Hale Ola o Ho'opakolea is a recent effort to test and demonstrate the effectiveness of an alternate and culturally-sensitive approach to meeting the mental health care needs of native Hawaiians. The three-year project (entering its third and final year at the beginning of 1983) is located on the Wai'anae Coast.

According to the Project Director, the Hale Ola Project is a unique effort in several respects. It represents the first time that a service center has been established to utilize a culturally-sensitive approach to service delivery targeted for native Hawaiians with mental, emotional, and related problems. It is a center that employs qualified service staff drawn from the Wai'anae Coast communities to provide counseling, referral, follow-up, training, and information gathering in a manner appropriate to native Hawaiians. Informal approaches to care-giving assistance are emphasized and flexibility is maintained with regard to setting the time and frequency with which care is provided. Hale Ola also represents a unique effort to identify, recruit, and coordinate the variety of informal care-givers and natural healers who are present in every community and offer a wide range of services generally uncatalogued and unacknowledged by professional service agencies. Hale Ola is working to link formal and informal sources of assistance in order to create a network of care for individuals with various kinds of problems and service needs. Finally, Hale Ola is unique in its organizational character; it was initiated by Wai'anae Coast community groups and it continues to be directly guided by and responsible to a community-based administrative committee consisting of residents and service agency staff.

The Hale Ola Project has also been responsible for sponsoring cultural research efforts that seek to elicit specific kinds of information directly applicable to culturally-sensitive service delivery. In particular, Hale Ola has formulated a community research program that consists of three main research efforts:

- A community survey of native Hawaiian perception and communication styles with regard to personal problems;

- A survey of informal care-givers and natural healers on the Wai'anae Coast; and

- A survey of the knowledge, attitudes, and practices of formal agency-based service providers on the Coast with regard to their sensitivity to native Hawaiian service needs.

By the beginning of 1983, the first research effort had been completed and documentation of this effort was being produced. The second effort was almost completed, and the third was being initiated.

Another program involving federal funds transferred from the National Institute of Mental Health to the Administration for Native Americans is the "Most-In-Need" (MIN) project. 154/ This program, also administered by Alu Like, addresses the needs of native Hawaiian youth through service system change, as well as improved relations among community, private, county, and state agencies. The need for this program was founded in the experience that native Hawaiian youth were particularly affected by disjointed care from traditional service delivery systems.

On the island of Molokai, the most-in-need group was identified by island human service providers as native Hawaiian youngsters between the ages of 12 and 14 years, residing in the Hawaiian Homestead areas of Hoolehua, Kalamaula, Kapaakea, Kamiloloa and One Alii. Puu Huoli, a subsidized housing project in Kaunakakai, and the Mana'e (east) end of the island, were also targeted. An estimated 250 youth fall into the target group.

Since 1979, the MIN Project has contacted and established positive relationships with over 150 native Hawaiian youngsters. The Project operated a demonstration summer program for two years and implemented a special after-school program in 1981 in the Hoolehua, Kaunakakai, and Mana'e areas. In addition, MIN conducted studies in juvenile delinquency and recreation to further clarify problems and concerns on Molokai.

D. MEDICAL HEALTH SERVICES

Among the programs operated by the State of Hawaii in this area are: public health nursing, chronic diseases, and nutrition.

The public health nursing program focuses on "wellness"--health promotion and maintenance, and disease prevention. The program provided services to 33,268 individuals during 1979-80, through visits to homes, private and parochial schools, day care centers, care homes, neighborhood centers, and nursing offices. The program also provides ongoing home health services to eligible people on Molokai and Lanai.

The objective of the Chronic Disease Branch is to reduce the complications and severity of chronic diseases by providing prevention, detection, and educational services. Major activities include:

- Screening for diabetes, hypertension, and cervical cancer;
- Provision of financial assistance to those with end-stage kidney disease; and
- Consultations to medical facilities about the rehabilitation care of chronically-ill patients.

The Nutrition Branch seeks to promote "wellness" in the State through good nutrition and the reduction of the risk of nutrition-related diseases. Direct nutrition services, consultation to other public and private agencies, and educational services are provided. Recently, the Branch developed and distributed a new publication that is entitled, "You Can Reduce Your Risk of Disease Through

Diet--Follow these Dietary Guidelines."

The Federal Government currently funds several programs in the priority medical health problem areas for native Hawaiians. 155/ The National Heart, Lung, and Blood Institute currently funds two large-scale programs in Hawaii concerning heart disease. The first is an epidemiologic study of heart disease conducted by the Geographic Diseases Section of the Honolulu Heart Study. The second is a high blood pressure education program directed at communication problems among ethnic groups.

There is also a great deal of activity in relation to cancer in the State of Hawaii. The National Cancer Institute, Public Health Service currently supports almost $2.5 million in grants and contracts in Hawaii specifically directed at cancer. Among the subjects under study are alcohol and cancer, diet and prostate cancer, lung cancer and dietary vitamin A, and clinical cancer education programs.

E. FAMILY HEALTH SERVICES

The Family Health Services Division of the Hawaii State Department of Health offers several programs. Among them are: maternal and child health, school health, crippled children services, and community services for the developmentally disabled.

The goal of the Maternal and Child Health Branch is to "interrupt the cycle of medical and psychosocial problems which tend to be passed from one generation to another, particularly in the more disadvantaged families." 156/ In order to reach this goal, programs are offered in the areas of family planning, perinatal care, and growth and development from infancy through adolescence. The combined programs serve approximately 45,000 individual clients annually. Specific programs include:

- Maternity and infant care project clinics for low-income families in Hilo, Waimanalo, and Nanakuli;
- Attempts to prevent child/spouse abuse and neglect through identification of families at high risk and an integrated system of community support;
- Screening and referral for vision, hearing, and development delays of children attending preschools; and
- Children and youth project for low-income families in Waimanalo. 157/

Special mention should be made of a project in Waimanalo, where the population consists of a high proportion of native Hawaiians. The Waimanalo Health Clinic is a combined Maternity and Infant Care/Children and Youth project. The Clinic offers a full range of services for mothers and children, and is staffed by a multidisciplinary team that includes specialists in speech and hearing, nutrition, public health nursing, social services, and medical services. The Clinic has developed unique projects in the areas of community public health nursing, adolescent health care, nutrition, and dental health programs. The Waimanalo Health Clinic is the only one of its kind in the State of Hawaii and "serves as a model to demonstrate the ideal in delivery of maternal and child health services in the community setting." 158/

Under the School Health Program, health aides, supervised by school nurses, provide preventive and emergency care in every public school in the State. The program also offers diagnostic evaluations for three- to ten-year-olds with learning disabilities.

The services provided by the Crippled Children Services Branch include: diagnosis, medical and surgical treatment, general counseling, occupational and physical therapy, speech therapy, social work, and nursing services. Diagnostic evaluations are provided without charge to all medically-eligible children. Treatment services are also free to families in financial need.

The Federal Government also provides funds for specific programs in the family health area. 159/ The U.S. Department of Health and Human Services supports:

- A program at the State Department of Health to support services to children with special needs;
- A special State project for mentally-retarded children; and
- A medical genetics screening program at the State Department of Health.

In addition, the School of Public Health at the University of Hawaii is the recipient of $301,000 in Federal funding to support a maternal and child health program directed to help young mothers during the pre- and postnatal periods.

F. COMMUNICABLE DISEASES

The Epidemiology Branch of the Hawaii State Department of Health operates the one venereal disease clinic in the State. Other programs include school immunization programs, an influenza vaccine program, and research on fish poisoning, salmonellosis, and leptospirosis. It is feared that the latter may be an occupational hazard of the growing aquaculture industry, and surveillance activities to monitor the situation are to be intensified.

The Tuberculosis Program offers detection services and preventive treatment. Tuberculosis remains a problem in Hawaii because of immigration, particularly of Indo-Chinese refugees.

The other major program in the communicable diseases category is the Leprosy Program. At the end of December 1979, there were 458 cases of leprosy on the state register. Of these cases, 328 were outpatients, 124 were residents of Kalaupapa on Molokai, 160/ and six resided at the South Trotter Wing at Leahi Hospital on Oahu. The Communicable Disease Division reports that, over the past ten years, there have been an average of 40 new leprosy cases each year. Of these cases, about 80 percent involve people who were born in Samoa or the Philippines. The Leprosy Program does not collect ethnic data on patients, but has informed the Commission that the distribution of the small numbers of locally-born cases appear to be indicative of the ethnic population distribution in Hawaii. 161/

Since 1974, the policy of the State has been to place all new leprosy cases under outpatient treatment, unless there are severe reactions or complications. Only three percent of the leprosy program budget was allocated to outpatient care in 1979-1980, while inpatient care accounted for the balance. The majority of the inpatients, as noted above, live in Kalaupapa, and their care is made more expensive by their advancing age (their average age in 1979 was 61). By law, the residents of Kalaupapa may live out the rest of their natural lives there.

In December 1980 (in the same public law that created the Native Hawaiians Study Commission), the U.S. Congress established the Kalaupapa National Historic Park. However, the

State of Hawaii continues to provide for the care of the patients.

G. COUNTY AND STATE HOSPITALS

The Hawaii State Department of Health administers four hospital systems that include twelve hospitals and one medical center. These facilities provide and coordinate high-quality acute and long-term health care to all citizens of the State, where such care is not routinely available from the private sector.

The locations of the facilities are as follows:

Hawaii County:	Five hospitals in Hilo, Kona, Honokaa, Kau and Kohala;
Maui County:	Two hospitals on Maui (Maui Memorial and Kula Hospital) and one medical center (at Hana); one hospital on Lanai;
Honolulu County:	Two hospitals (Leahi and Maluhia); and
Kauai County:	Two hospitals (Kauai Veterans and Samuel Mehelona Memorial).

H. OTHER PROGRAMS

The Hawaii State Department of Health also conducts the following programs:

- Dental health, with programs in dental hygiene, hospital dentistry, and community services;

- Waimano Training School and Hospital, which is the State's only residential institution for the mentally retarded;

- Health Promotion and Education, which promotes healthful lifestyles and health maintenance; and

- The State Health Planning and Development Agency, whose activities are statewide planning for health services, manpower and facilities, and the development of resources to support its plans.

HEALTH AND SOCIAL SERVICES

NOTES

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12/ See I. J. Larsen.

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15/ See Snow; and I. J. Larsen.

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28/ See Snow.

29/ Robert C. Schmitt, The Missionary Censuses of Hawaii, Pacific Anthropology Record No. 20 (Honolulu: Bernice P. Bishop Museum, 1973).

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33/ Rubellite K. Johnson, Kumulipo, Hawaiian Hymn of Creation (Honolulu: Topgallant Publishing Co., Ltd., 1981).

34/ Pukui, Haertig, and Lee. [See, also, chapter in this Report entitled, "Native Hawaiian Religion."]

35/ See Bushnell, "Hygiene and Sanitation among the Ancient Hawaiians;" and, Pukui, Haertig, and Lee.

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37/ See Kamakau; and, Pukui, Haertig, and Lee. [See, also, chapter in this Report entitled, "Native Hawaiian Religion."]

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39/ Ibid.

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51/ *Ibid*.

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59/ *Ibid*.

60/ *Ibid*.

61/ *Ibid*.

62/ *Ibid*.

63/ Schmitt, *Demographic Statistics of Hawaii*.

64/ See Bushnell, *A History of Infectious Diseases in Hawaii*; and, R. K. Blaisdell, "Hawaiian Medical Practices" (Lecture and Manuscript, Kamehameha Schools, 1979).

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70/ Blaisdell, "Hawaiian Medical Practices."

71/ See Halford.

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73/ See Bushnell, *A History of Infectious Diseases in Hawaii*; Blaisdell, "Hawaiian Medical Practices;" and, Fuchs.

74/ Blaisdell, "Hawaiian Medical Practices."

75/ See chapter on "Native Hawaiian Religion," below, by Rubellite K. Johnson.

76/ See Halford.

77/ See chapter on "Native Hawaiian Religion," below, by Rubellite K. Johnson.

78/ Blaisdell, "Hawaiian Medical Practices."

79/ See C. S. Judd, Medical History of Hawaii (unpublished manuscript, University of Hawaii Medical School, 1978); and, Halford.

80/ Bushnell, A History of Infectious Diseases in Hawaii.

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86/ Ibid.

87/ See Mouritz; and, Skinsnes, Evolution of Hawaii's Leprosy Control Program.

88/ See Mouritz; and, Skinsnes, "Notes on Leprosy in Hawaii."

89/ Blaisdell, "History of Medicine in Hawaii."

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92/ See Bushnell, A History of Infectious Diseases in Hawaii; and, Blaisdell, "History of Medicine in Hawaii."

93/ Blaisdell, "History of Medicine in Hawaii."

94/ See Bushnell, A History of Infectious Diseases in Hawaii; Judd; and, Blaisdell, "History of Medicine in Hawaii."

95/ Blaisdell, "History of Medicine in Hawaii."

96/ See Judd; and, Blaisdell, "History of Medicine in Hawaii."

97/ See Ibid.; and, Bushnell, A History of Infectious Diseases in Hawaii.

98/ See Judd.

99/ Ibid.

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Hawaii's Population by Major Ethnic
Stock in 1778, 1893 and 1983 */
(in thousands)

Ethnic Stock	1778		1893		1983	
Hawaiian	300	100%	40	45%	179.3	18%
Pure	300	100	34	38	9.3	1
Part	0		6	7	170	17
White	0				300	31
U.S.-Europe			12	13		
Portuguese			8			
Oriental	0		30	33		
Other	0					
Total	300	100%	90	100%	980	100%

*/ Approximate figures from Schmitt.

105/ Ibid.

106/ See Bushnell, A History of Infectious Diseases in Hawaii; Judd; and, Blaisdell, "History of Medicine in Hawaii."

107/ See Bushnell, A History of Infectious Diseases in Hawaii; and, Leahi Hospital, Annual Reports, 1902-1980.

108/ Leahi Hospital, Annual Reports.

109/ Ibid.

110/ B. H. Douglas, "Tuberculosis in the Territory of Hawaii," Public Health Committee, Chamber of Commerce of Honolulu (1938).

111/ See Bushnell, A History of Infectious Diseases in Hawaii; and, Blaisdell, "History of Medicine in Hawaii."

112/ See Ibid.; and, Judd.

113/ Bushnell, A History of Infectious Diseases in Hawaii.

114/ Ibid.

115/ See Skinsnes, "Notes on Leprosy in Hawaii;" and, R. K. C. Lee and A. Russell, Public Health and Medical Sciences in the Pacific: A 55-Year Review, 1920-1975, U.S.-Hawaii, Pacific Science Association (1983).

116/ Ibid.

117/ Lee and Russell.

118/ See Skinsnes, "Notes on Leprosy in Hawaii;" and, Lee and Russell. [See also, below, page 114.]

119/ Lee and Russell.

120/ Ibid.

121/ See Liberman; and, Lee and Russell.

122/ Lee and Russell.

123/ See Liberman; and, Lee and Russell.

124/ Lee and Russell.

125/ See Liberman; and, Lee and Russell.

126/ See Bushnell, A History of Infectious Diseases in Hawaii; Judd; and, Blaisdell, "History of Medicine in Hawaii."

127/ Leahi Hospital, Annual Reports, 1902-1980.

128/ Ibid.

129/ See Ibid.; and, Lee and Russell.

130/ See Skinsnes, Evolution of Hawaii's Leprosy Control Program; and, Hanley and Bushnell.

131/ Kalaupapa National Park Advisory Commission Report (1980).

132/ Skinsnes, Evolution of Hawaii's Leprosy Control Program.

133/ See Judd.

134/ Ibid.

135/ Ibid.

136/ See Bushnell, A History of Infectious Diseases in Hawaii; Judd; and, Blaisdell, "History of Medicine in Hawaii."

137/ Personal Communication to Dr. Blaisdell from W. Sakai, Waimano Training School and Hospital Administrator (February, 1983).

138/ Lee and Russell.

139/ Ibid.

140/ Ibid.

141/ See Liberman; and, Lee and Russell.

142/ See Judd.

143/ Personal Communication to Dr. Blaisdell from B. B. C. Young, University of Hawaii Medical School, Dean of Students (February 1983).

144/ The Commission also received two other papers that deal, in whole or in part, with the mental health of native Hawaiians; both were written at the direction of and funded by the Office of Hawaiian Affairs. They are: (1) Richard Kekuni Blaisdell, M.D., "Health Section of Native Hawaiians Study Commission Report" (see, particularly, pages 34-37); and (2) Ramon Lopez-Reyes, "The Demise of the Hawaiian Kingdom: Its Psycho-Cultural Impact and Moral Legacy." Both papers appear in their entirety, in the Appendix of this Report.

145/ See Appendix for comment received from Hale Ola o Ho'opakolea, p. 2.

146/ Ibid.

147/ Ibid.

148/ Ibid.

149/ Ibid.

150/ According to comments received from the Hale Ola Project, the clinic operated on the Wai'anae Coast of Oahu "was noted for its inability to adequately meet the mental health care needs of native Hawaiians on the Coast. This problem was largely due to the insensitivity of clinic staff to the unique manner in which native Hawaiian clients identified, communicated and sought to resolve their problems" (p. 3).

151/ Dept. of Health, Annual Report, 1980, p. 9. For a detailed discussion of this survey, see preceding chapter, "Demographics," pages 57 to 59.

152/ The information on this program is drawn from comments received by the Commission from the Hale Ola Project staff, pp. 3-5.

153/ Ibid., p. 3.

154/ Information on this program supplied by Commissioner Carl Anderson, U.S. Department of Health and Human Services; and in written testimony submitted to the Commission on January 10, 1982, by George Osakoda, Project Director for the Most-In-Need Project on Molokai.

155/ Information supplied by Commissioner Carl Anderson, U.S. Department of Health and Human Services. The Commission also received a comment from the Director of Indian Health Services (a part of the U.S. Department of Health and Human Services) stating that: "Native Hawaiians are not within the scope of the [Indian Health Service (IHS)] program and there are no IHS programs specifically targeted to serve them. The regulations governing eligibility for IHS services at 42 CFR Part 36.2 (b) states in pertinent part: (b) Indian includes Indians in the continental United States, and Indians, Aleuts and Eskimos in Alaska" (p. 1).

156/ Dept. of Health, *Annual Report, 1980*, p. 19.

157/ *Ibid.*

158/ *Ibid.*, p. 20.

159/ Information supplied by Commissioner Carl Anderson, U.S. Department of Health and Human Services.

160/ In January 1983, the number of patients who were residents of Kalaupapa was 114. (Communication from Hawaii Department of Health, Communicable Disease Division.)

161/ This information on the national and ethnic origin of new leprosy cases was obtained by the Commission from the Communicable Disease Division of the Hawaii State Department of Health in January 1983, in response to a comment received from Bill Kama who states that the Draft Report did not mention the lepers' plight and that "the majority are Hawaiians, and they have been treated like third class citizens."

Education

A. INTRODUCTION

The chapter above on "Demographics" presents the statistics on education in Hawaii that are now available to the Commission. This chapter will review the historical development of the educational system in Hawaii. It will include criticisms of the system, review programs that have been initiated specifically for native Hawaiians, and discuss native Hawaiian participation in the educational community.

B. HISTORICAL BACKGROUND

Early Background

Formal education as practiced in the United States began in Hawaii after the arrival of the Protestant missionaries in 1820. Before that time, learning was passed down orally from one generation to another. For the commoners (maka'ainana) this process generally involved learning the trades from elders. The ali'i were instructed in the higher arts of religion, ruling, and warfare.

The missionaries lost no time in introducing their version of a formal education system, although it was at first restricted to the ali'i, at the latter's command. The missionaries' first task was to reduce the hitherto oral Hawaiian language to written form. Within a year of their arrival, the missionaries developed the first Hawaiian alphabet. A year later, the first textbook in Hawaiian was printed--a sixteen-page primer with the alphabet and rudimentary lessons.

When the ali'i gave the missionaries permission to establish schools for commoners, the growth in numbers of both students and schools was phenomenal. By 1831, approximately two-fifths of the population was enrolled in schools. 1/ Throughout the decade of the 1820's, the majority of students were adults. Concerted efforts were begun to teach children in the 1830's, when the novelty of education had worn off for the adults.

Until 1840, education was the domain of the Protestant missionaries, with native Hawaiians as teachers. After 1840, this control diminished for two reasons. First, in 1840 a law was enacted to provide for a national system of common schools supported by the government. As a result, for the first time the people as a whole were required to send their children to school. In 1845, the legislature created a cabinet-level position of Minister of Public Instruction. The second reason for this diminished control was that religious tolerance was declared a government policy and other religious sects (primarily Catholic) began establishing schools. However, in spite of government direction, the schools maintained their sectarian character until the end of the reign of Kamehameha III in 1854.

By the middle of the nineteenth century there were two types of schools, government common free schools and select schools. The former comprised the free public school system. The language of instruction was Hawaiian, and the students were taught by native Hawaiian teachers. The select schools were the private schools set up for specific groups. Instruction was in English. The Royal School, which was established in 1839 by the Rev. Amos Starr Cooke and his wife, was the school that the children of the highest-ranking ali'i attended. 2/ In 1842, another missionary established Punahou, for missionary children.

Other private schools were established, mostly under denominational auspices, although some received government support. Throughout most of the second half of the nineteenth century, these private schools offered the only secondary education that was available. 3/

English was not taught in Hawaiian public schools until the early 1850's. The missionaries were at first very much against the idea of abandoning the Hawaiian language as the medium of instruction. They believed that "in order to preserve the nation, they must preserve its speech." 4/ However, by the middle of the nineteenth century English had become the primary language of business, government, and diplomacy. In 1844, a weekly newspaper published in English was the official organ of the kingdom's government. 5/ The government was pressured to encourage the teaching of English in public schools by both foreigners and Hawaiians. 6/ In 1853-54, the kingdom's legislature enacted laws to support English schools for native Hawaiians. In 1854, ten such schools were established and by the end of the century, all public school instruction was in English.

In 1854, the government also reorganized the school system along territorial, rather than sectarian, lines. Although religious organizations remained involved in the public school system for several years, their influence eventually waned. However, religious groups continued to establish numerous vocational and secondary schools.

During the years of the Republic of Hawaii (1894-1900), further developments occurred in the school system. Educators were invited to come to Hawaii from the mainland. The Constitution of the Republic prohibited the use of public money for denominational schools. Honolulu High School, which was the first public secondary school in Hawaii, was established in 1895. 7/

Henry S. Townsend was named inspector general of the Hawaii school system in 1896. He was very much associated with the new philosophy of progressive education that was being espoused on the mainland by John Dewey, and he introduced it to Hawaii's teachers. 8/ Townsend also persuaded the Republic to establish a Normal School so that Hawaii could train its own teachers. In 1905, of 400 teachers employed in the public schools, 148 were native Hawaiian. 9/ In 1899, the Republic abolished the practice of charging tuition for public schools, and this further advanced the cause of universal education.

At the time of annexation, there were several types of schools in Hawaii. There were 140 public schools and 55 private schools. There was only one foreign language school (in Japanese) but this would be substantially augmented later with more Japanese, Chinese, and Korean language schools. Several industrial and vocational schools also existed, including the Kamehameha Schools for native Hawaiian boys and girls, which was established in 1887. In a class by itself was Punahou, which was a "symbol of educational excellence as well as elite status," with an exclusionary policy that it would maintain for some time. 10/

Territorial Education System

After annexation, many teachers were brought to Hawaii from the mainland, and the process of "Americanization" began in earnest. Hawaii's public schools became the primary carrier of American values to all of the races that inhabited the islands. Oriental families quickly took advantage of the school system.

Japanese and Chinese enrollment increased dramatically from 1900 to 1911, while haole, Portuguese, and native Hawaiian enrollment increased only slightly. 11/

More public high schools were established--at Hilo in 1905, on Maui in 1913, and on Kauai in 1914. A public college of mechanical and agricultural arts was established in 1907 and was enlarged to become the College of Hawaii in 1912, and the University of Hawaii in 1920. 12/

The Hawaii educational system had made remarkable strides, yet more could be done. It was investigated by a mainland team under the direction of the Federal Commissioner of Education in 1920. The team's report criticized several aspects of the system and offered many recommendations: the average per capita expenditure for education was low; teachers were underpaid and there were too few of them; not enough was spent on maintenance of and supplies for schools; secondary schools needed to be expanded and to offer a wider curriculum (only 3 pupils of every 100 were then in public high schools); the university needed to be expanded; and junior high schools and public kindergartens needed to be created. 13/

Many of the survey's recommendations were adopted. One of the changes brought about was in the credentials necessary to become a teacher. The Commission recommended that only high school graduates be admitted to the Normal School and that the training period be extended to two years. At the time, eighth grade graduates were admitted for a four-year course and high school graduates received one year of training. 14/ In 1931, the Territorial Normal and Training School and the university's School of Education united to form the Hawaii Teachers College. 15/ The Laboratory Schools of this College became known for their innovative teacher training program. 16/

The federal survey also suggested that pupils be segregated in public schools according to their ability to use English correctly. This was based on the theory that the use of pidgin by (mainly) Oriental children would retard the progress of other students.

After 1920, the pressure for school segregation mounted. It was no longer possible for all Caucasian children to attend private schools, and the public schools were now about 60 percent Japanese and Chinese. 17/ Segregation by race was impossible because of the extensive interracial marriage that had already taken place. It would also not be possible to create separate schools just for haole students, since the "Hawaiians and Portuguese, constituting an overwhelming majority of voters, would never permit such a system." 18/

The Territory responded by creating the "English Standard" schools that required students to pass English entrance examinations to qualify for admission. At first, this dual school system tended to segregate students by race. It discriminated mostly against Orientals and full-Hawaiians, depending on the location of the school. It also helped to perpetuate class distinctions and to emphasize social distinctions. However, these distinctions were lessened as time went on, and by the time the English Standard system was abolished in 1947, these schools were attended by more Japanese than haole students. 19/

During the life of this system, only a small minority of Hawaii's children attended English Standard schools. In 1941, less than 7 percent of the students enrolled in the public school system attended them, while the rest of the students attended regular public schools. 20/

Mainland teachers played a key role in Hawaii's education system. They stressed American culture and American values. They concentrated on the tenets of democracy, freedom, patriotism, and equality. Such moral and philosophical ideas were in sharp contrast to the stratified social system that existed in Hawaii at the time. As late as 1920, the bulk of Hawaii's teachers were haole (40 percent), Hawaiian or part-Hawaiian (25 percent), and Portuguese (12 percent). 21/ After the Normal School was expanded, however, more Oriental and Hawaii-trained teachers began teaching.

C. CRITICISMS OF THE SYSTEM

Critics of the American educational system point out that native Hawaiians have been forced into a mold that does not fit them and that their identity has been taken from them. 22/

The Native Hawaiians Study Commission heard much testimony in January 1982 about the need for greater attention to native Hawaiian education. One native Hawaiian criticized the present system in the following way:

> The Americans educational system has used the schooling process historically and contemporaneously as a means to inculcate American values on Native American communities, thereby altering native ways of life.
>
> ...The American Protestant Mission, the plantation system and industrialism, all are factors that have combined to establish American socio-economic order in these islands with little or no regard for Native Hawaiian identity. The school has become an instrument for the advancement of American ideology: its objectives are to deculturate Native Hawaiians rather than to acculturate them.
>
> ...most Americans understand what happened in Hawaii history as a process of acculturation as an equal two-way sharing process between Native Hawaiian and American culture. In [other] words, the process of cultural change in Hawaiian American communities is present in society and through the educational media a distorted point of view, the schools teach "white-American history" not "native-American history." As a consequence of this perspective, acculturation processes have always been perceived as a problem for Native Americans. They are not viewed in their proper perspective as problems which have been imposed on Hawaiians by Euro-American culture which has stripped them of their capacity to control their own life ways. 23/

In response to these criticisms of the educational system in Hawaii, the Commission received comments from the Superintendent of the State of Hawaii Department of Education. The Superintendent states that:

> It is intimated that the educational system in Hawaii selectively destroyed the Hawaiian culture as it Americanized the children of Hawaii. If the culture were indeed destroyed, which we do not believe to be true, the causes have to be so much more complex than that the dominant haole or western-oriented school system did a total brain wash of the native population. The churches played a large part in this as did the centers of power in mercantilism, commerce and agribusiness. The other established ethnic groups could also complain that the culture of their respective ancestor generations who came to Hawaii were also "destroyed" by the western-oriented school system of this Territory which had, rightly or wrongly, been taken over by the United States.

> We are living in a time when diversity of interests, backgrounds, and cultures is far more tolerated in the United States and other parts of the world than it was since the time of western contact here through the Second World War. There have been terrible injustices and inequities carried out against minority populations--ethnic, religious, and socio-economic. Perhaps the Hawaiians were dealt a harsh hand in the past but the modern public educational system in Hawaii is now striving to promote not only Hawaiian culture but excellence in education for our Hawaiian and non-Hawaiian children and for this we need the kokua and support of the leaders in all areas of the Hawaiian community. 24/

D. PROGRAMS FOR NATIVE HAWAIIANS

Hawaiian Studies Program

In the 1960's and 1970's, there was renewed interest in the Hawaiian culture--music, religion, and language. Support for this renewed interest grew and:

> As the elements of this renaissance became more focused and as Americans in general became more interested in their cultural roots, Hawaiians and others in the community began calling for more Hawaii-oriented courses of study in schools and colleges. The projection that the Hawaiian language will be lost with the passing of the existing native speakers became of major concern in view of belief that understanding of the language is the key to understanding more fully the whole culture of the Hawaiian people. 25/

A key aspect of this belief in the importance of preserving the Hawaiian culture is that it will benefit not only the native Hawaiians, but all the residents of the State. According to the State Department of Education:

> We intend for all of our students, Hawaiian and non-Hawaiian, in all grades from Kindergarten to Twelve to have the opportunity to learn about the early Polynesian immigrants, the native Hawaiians and all of the other immigrant groups, and their interrelationships which have resulted in the Hawaii which we know today. We also believe that it is important for our students to recognize that we live in an island environment with its physical and metaphysical aspects, limitations, and possibilities. 26/

Responding to this impetus, in 1978 a State Constitutional Amendment was adopted to create a Hawaiian Studies Program 27/ that mandates the State to:

> ...promote the study of Hawaiian culture, history and language. The State shall provide for a Hawaiian education program consisting of language, culture and history in the public schools. 28/

To carry out this program, the State instituted the Hawaiian Studies Program to "develop knowledge, understanding, appreciation and internalization of fundamental aspects of Hawaiian culture, including values, concepts, practices, history, and language." 29/ Students are introduced to the various aspects of Hawaiian culture through ten areas of study (language, food, health, music, games, numbers and mathematics, history, etc.).

Approximately 30 percent of the program's effort has been devoted to teaching the Hawaiian language at the elementary level. Teachers are native-speaking elders (kupuna) who are drawn from the community and trained in classroom management and instructional techniques. 30/ To date, the State Department of Education has completed curriculum guides for grades kindergarten through the sixth grade. 31/

The program began in 1980 and expanded from 35 schools in 1980-81 to 82 schools in 1982-83, with kupuna in 886 elementary classes. 32/ However, allocations from the State Legislature for kupuna salaries have been the same for the past three years, $201,960. Without more money, the program will be unable to expand horizontally (to more districts) or vertically (to higher grade levels). 33/

Many parents and organizations are concerned about the lack of an integrated Hawaiian education program in the public schools. For example, during a public hearing in Hawaii on expanding the Hawaiian Studies Program, one person testified that:

> We believe that the Hawaiian Studies program should not be an isolated "unit" taught at certain times in a child's school career, but rather should be an on-going integration of cultural concepts, knowledge, history, and language into the "regular" curriculum. 34/

Concerns were also voiced about the use of kupuna in the present program. The speaker noted that: in-service training for teachers is needed so that they can effectively use the contribution of the kupuna; the number of kupuna per school do not reflect the school population; there is a lack of money for supplies; there is no clear understanding of how kupuna are assigned to classrooms; and there is inadequate in-servicing for the kupuna themselves. 35/

Other Programs

Other educational programs exist in Hawaii that are directed specifically toward native Hawaiians. These programs are both publicly and privately financed.

One such program is the Hawaiian Learning Program at the University of Hawaii School of Social Work. This undergraduate and graduate training program has been federally-funded for five years by the Social Work Education Branch of the National Institute of Mental Health. Its purpose is to help and encourage native Hawaiians to become social workers with both professional skills and Hawaiian cultural values as a base for their training in helping fellow Hawaiians. Students take courses, work in practicum situations with native Hawaiian clients, families, or school children, and do research. Graduates of the program have gone on to work for organizations such as Alu Like, Inc., and other public and private social agencies in Hawaii. 36/

Alu Like, Inc., is a private, nonprofit organization that works toward native Hawaiian economic and social self-sufficiency. In 1978, Alu Like initiated a pilot project in conjunction with the Haleiwa Elementary School, the Department of Education Central District, and the Waialua Community Parent's Group. The project focused on teaching basics to all students through Hawaiian cultural concepts. Alu Like reports that "the impact has been significant, and the District has incorporated the concept into its regular program at Haleiwa and is utilizing the teaching materials elsewhere in the District." 37/

Other Alu Like educational programs include video presentations for classrooms. Presentations on Ohana in the Family and Ohana in the Classroom at one elementary school are "attempts to encourage the use of cultural approaches in learning which improve classroom management and facilitate learning for Hawaiian and non-Hawaiian students alike." 38/

Organizations such as the Hawaiian Civic Club of Honolulu are also involved in educational activities. The Honolulu Club's Scholarship Fund, which is "considerable for its small membership, has aided hundreds of Hawaiian youth in the completion of undergraduate and graduate work." 39/

Another organization that submitted comments on educational activities to the Commission is the Kahanahou Hawaiian Foundation. The Kahanahou cultural division has, since 1969, "included year-round ethnic schools teaching Hawaiian language, history and traditions, native arts and crafts, sacred literature and dance, ancient implement and instrument making. And, although some classes are opened to the general public, the continuing thrust has been on the education and training of our own (Hawaiian) people, and the advancement and preservation of our native culture." 40/

No list of educational programs would be complete without mention of the Kamehameha Schools. As noted above, the Kamehameha School was established in 1887 by the Bernice Pauahi Bishop Estate. The original purpose of the trust set up by Mrs. Bishop's estate was to maintain schools specifically for those students with native Hawaiian blood. Besides the schools themselves, the school also sponsors camps and an extension education division. According to one comment received by the Commission, "in the 1980's the Schools have a student body of 2,800 and a part-time number of 9,000 students and now may be servicing about 25 percent of the eligible native Hawaiians with its present capacity and curriculum." 41/

E. NATIVE HAWAIIAN PARTICIPATION IN THE EDUCATIONAL COMMUNITY

The Native Hawaiians Study Commission received detailed information on the ethnic composition of the educational workforce from the Office of Hawaiian Affairs during its public hearings in January, 1982. 42/ This information is summarized below, followed by a brief discussion of the University of Hawaii system.

Educational Officers

The category "educational officers" includes senior management, curriculum, staff and program specialists, principals, and vice principals. The data from 1977 to 1980 show that for each year covered, the proportion of part-Hawaiians appointed to educational officer positions exceeds the part-Hawaiian proportion that applied for those positions. (See Table 45. */) For example, in 1980, of all persons who applied for educational officer positions, 13 percent were part-Hawaiians. Of those who were actually appointed, 15.3 percent were part-Hawaiians. Part-Hawaiians were the only ethnic group for which this was true in 1980. The 15.3 percent who were appointed is comparable to the part-Hawaiian proportion of the State population, 17.9 percent.

No full-Hawaiians have applied for educational officer positions since 1978, when they accounted for 0.1 percent of the applicants. One full-Hawaiian was appointed in 1977, however, and full-Hawaiians then had a 0.6 percent share of all appointments.

The total ethnic composition of the educational officer workforce is illustrated in Table 46. In 1980, there were no full-Hawaiians, and part-Hawaiians accounted for 6.5 percent of the total.

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*/ All tables appear at the end of the chapter.

Instructional Personnel

The percentage of part-Hawaiians and full-Hawaiians qualified to be considered for instructional positions (teachers, librarians, etc.) has been declining since 1977. As a result, it is not surprising that the percentage actually hired has also declined. In 1977, the proportion of full- and part-Hawaiians in the qualified labor pool was 5 percent; that proportion was 3.7 percent in 1980. The proportion of full- and part-Hawaiians hired was 6.6 percent in 1977 and 4.7 percent in 1980.

Despite the decline in the qualified labor pool, the percentage of full- and part-Hawaiians in the teacher workforce remained the same from 1977 to 1980--0.3 and 6.7 percent, respectively. (See Table 47.) The proportion of full- and part-Hawaiians employed as teachers in 1980 (4.7 percent) exceeded their proportion in the qualified labor pool (3.7 percent).

University of Hawaii

The Commission obtained figures from the Vice President's office at the University of Hawaii on native Hawaiians in the University system. 43/ Student enrollment in the entire University of Hawaii system in the Fall of 1982 was 46,562. Of this number, 3,944 (or 8.5 percent) identified themselves as native Hawaiians. 44/ There were not as many native Hawaiian professors relative to the entire faculty. In the Fall of 1982, there were 3,387 professors in the University of Hawaii system. Only 90, or 2.7 percent, were of native Hawaiian descent.

The small number of native Hawaiian students at the University of Hawaii may have a direct impact on the number of native Hawaiians in the educational workforce reported in the previous section. According to the Hawaii Department of Education, the subject of the relative lack of native Hawaiians in the educational workforce is:

> ...far more complex than simply implying that Hawaiians or others have been systematically excluded. Family attitudes and influential teachers generally have a major influence on how many youngsters eventually become teachers and, subsequently, educational officers. There have been so few Hawaiian and part-Hawaiian students matriculating from the public school system to the University in the past decades that it is no surprise that there are few teachers and educational officers of Hawaiian ancestry. When teachers were really needed by a rapidly expanding school system in the 1960's, local interest was not enough to fill the positions needed so the Department had to recruit teachers from the Mainland. That would have been a perfect time for more Hawaiians to have been hired into the system but the interest was not there in that "pre-renaissance" era. 45/

EDUCATION

TABLES

TABLE 45

PROPORTIONAL APPLICANT POOL AND APPOINTMENTS TO EDUCATIONAL OFFICER

Ethnic Group	1977 % Applicants	1977 % Appointments	1978 % Applicants	1978 % Appointments	1979 % Applicants	1979 % Appointments	1980 % Applicants	1980 % Appointments
	Vacancies by Ethnicity							
Black	--	0.6	0.1	--	0.1	--	0.1	--
Filipino	--	2.9	3.2	4.7	2.9	2.3	2.6	1.5
Chinese	--	8.7	9.0	7.6	8.2	7.0	10.6	6.6
Hawaiian	--	0.6	0.1	--	--	--	--	--
Korean	--	3.5	4.0	3.6	3.8	1.5	4.3	2.2
Part-Hawaiian	--	7.0	7.3	7.6	7.0	10.8	13.0	15.3
Puerto Rican	--	0.6	0.1	0.6	0.2	0.8	0.3	0.7
Samoan	--	--	--	--	--	--	--	--
White	--	13.9	5.6	9.4	8.9	10.8	15.7	11.0
Japanese	--	59.8	69.0	65.3	67.2	65.3	50.4	59.8
Mixed	--	1.2	1.2	0.6	1.2	1.5	1.0	2.9
Others	--	1.2	0.4	0.6	0.5	--	1.9	--
Percentages	--	100%	100%	100%	100%	100%	100%	100%
Totals		(172)	(5,680)	(170)	(2,922)	(130)	(1,071)	(137)

Source: A. Leiomalama Solomon, "Cross-Cultural Conflict between Hawaiians and Americans," Testimony prepared for the Native Hawaiians Study Commission, Hilo, Hawaii (January 12, 1982), Appendix, p. 3.

TABLE 46

ETHNIC COMPOSITION OF EDUCATIONAL OFFICER WORKFORCE (Percentage)

Ethnic Group	DATE 06/77	06/78	06/79	06/80
Black	0.2	0.2	---	---
Filipino	3.1	3.3	3.6	3.4
Chinese	9.7	9.4	9.3	9.0
Hawaiian	0.2	---	---	---
Korean	2.2	2.6	2.4	2.4
Part-Hawaiian	5.3	5.4	6.6	6.5
Puerto Rican	0.2	0.2	0.2	0.2
Samoan	---	---	---	---
White	11.6	11.7	10.9	10.4
Japanese	65.9	65.6	65.0	66.4
Mixed	1.4	1.3	1.7	1.5
Others	0.3	0.3	0.3	0.2
Total (%)	100%	100%	100%	100%
Total'	(639)	(608)	(589)	(613)

Source: Solomon, p. 5.

TABLE 47

ETHNIC COMPOSITION OF TEACHER WORKFORCE 1977-1980 (Percentage)

Ethnic Group	DATE 06/77	06/78	06/79	06/80
Black	0.3	0.3	0.4	0.3
Filipino	2.4	2.5	2.6	2.7
Chinese	8.5	8.4	8.2	8.2
Hawaiian	0.3	0.3	0.3	0.3
Korean	1.2	1.2	1.2	1.2
Part-Hawaiian	6.7	6.7	6.7	6.7
Puerto Rican	0.1	0.1	0.1	---
Samoan	0.2	0.2	0.1	0.1
White	17.4	17.2	16.9	17.1
Japanese	59.1	59.3	59.6	59.5
Mixed	3.3	3.4	3.5	3.5
Others	0.5	0.4	0.4	0.4
Total (%)	100%	100%	100%	100%
Total	(9,146)	(9,148)	(9,121)	(9,167)

Source: Solomon, p. 11.

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NOTES

1/ Ralph S. Kuykendall, The Hawaiian Kingdom, Volume I, 1778-1854, Foundation and Transformation (Honolulu: University of Hawaii Press, 1968), p. 106. (Hereinafter referred to as "Kuykendall, Volume I.")

2/ A comment received by the Commission from Violet Ku'ulei Ihara suggests that the Royal School was founded at the request of Kamehameha III. This may very well be true even though the works consulted here (including Fuchs, Daws, Liliuokalani, and Kuykendall) do not so state.

3/ Lawrence H. Fuchs, Hawaii Pono: A Social History (New York: Harcourt, Brace & World, Inc., 1961), p. 264.

4/ Kuykendall, Volume I, p. 360. For more on the Hawaiian language, see "Language" section in chapter on "Native Hawaiian Culture," below.

5/ Andrew W. Lind, Hawaii's People, 3rd ed. (Honolulu: University of Hawaii Press, 1967), p. 87.

6/ Kuykendall, Volume I, p. 360.

7/ Fuchs, p. 264.

8/ Ibid., p. 265.

9/ Ibid., p. 264.

10/ Ibid., pp. 265-266. Comments by Haunani-Kay Trask, et al., state that this exclusionary policy was "white supremacist" (p. 9). Fuchs states that: "When twenty-six Chinese boys applied in 1896, the trustees of Punahou, unwilling to adopt an extreme racist policy, were pleased to point to a new rule that no pupil could be admitted who was 'incapable of using the English language as a medium of instruction,' and quick to argue the advantages of the new free high school established in Honolulu only the year before. Punahou would remain exclusive, but never again exclusively haole. A few Orientals--though only a token--would be admitted" (p. 266).

11/ Fuchs, p. 268.

12/ Comment received from Robert C. Schmitt, p. 2.

13/ Fuchs, pp. 271-272.

14/ Ibid., p. 272.

15/ Ralph S. Kuykendall and A. Grove Day, Hawaii: A History, from Polynesian Kingdom to American Commonwealth (New York: Prentice-Hall, Inc., 1948), p. 246.

16/ Comment received from Violet Ku'ulei Ihara, p. 2.

17/ Fuchs, p. 274.

18/ Ibid., p. 275.

19/ Ibid., p. 279.

20/ Ibid.

21/ Ibid., p. 283.

22/ A comment received from Violet Ku'ulei Ihara states that: "Criticisms on education are one-sided. Where are the opinions of teachers in the field, administrators, parents, retirees?" (p. 2) The Commission did receive comments on this section from the Superintendent of the Hawaii Department of Education, and these comments are included at the end of this section.

23/ Dr. A. Leiomalama Solomon, Office of Hawaiian Affairs, Co-Chairperson, Education Committee, "Cross-Cultural Conflict Between Hawaiians and Americans," Written testimony submitted to the Native Hawaiians Study Commission, Hilo, Hawaii (January 12, 1982), p. 1.

24/ Comment received from Donnis H. Thompson, Superintendent, State of Hawaii Department of Education, p. 2.

25/ State of Hawaii, Department of Education, Office of Instructional Services/General Education Branch, Hawaiian Studies Program Guide (Draft) March 1981, p. I-1.

26/ Comments received from Donnis H. Thompson, Superintendent, State of Hawaii Department of Education, p. 1.

27/ One comment received by the Commission (from Bill Kama) pointed out that the Hawaiian language was a mandatory subject from 1919 to 1975 in Hawaii's schools but that the law was "effectively ignored" (p. 1).

28/ Hawaii State Constitution, Article X, Section 4.

29/ Hawaiian Studies Program Guide, p. II-1.

30/ Ibid., p. II-3.

31/ Comment received from Donnis H. Thompson, Superintendent, State of Hawaii Department of Education, p. 1.

32/ Ibid.

33/ Robert Lokomaika'Iokalani Snakenberg, Written testimony submitted to the Native Hawaiians Study Commission, Kahalu'u, Oahu (January 14, 1982), p. 3.

34/ Dixie Padello, Testimony Presented to the Joint Public Hearing of the House and Senate Committees on Education, (Honolulu, July 31, 1982), p. 1.

35/ Ibid., p. 2.

36/ Malie Mossman, Written testimony submitted to the Native Hawaiians Study Commission, Honolulu, Hawaii (January 15, 1982), p. 1.

37/ Winona Rubin, Testimony Presented to the Joint Public Hearing of the House and Senate Committees on Education (Honolulu, July 31, 1982), p. 2.

38/ Ibid.

39/ Claire Hughes Ho, Hawaiian Civic Club of Honolulu, Testimony Presented to the Native Hawaiians Study Commission (Honolulu, January 15, 1982), p. 1.

40/ Comment received from Kenneth C. "Keneke" Chan, Kahanahou Hawaiian Foundation, p. 1.

41/ Comment by Louis Agard, p. 24.

42/ Solomon, "Cross-Cultural Conflict between Hawaiians and Americans," Appendix.

43/ See comment by Haunani-Kay Trask, et al., who says that: "Hawaiians are clearly underrepresented in both faculty and student ranks" (p. 9).

44/ A study conducted by the University of Hawaii ("Report in Response to H.R. 509 Requesting the University of Hawaii to Study the Underrepresentation of Ethnic Groups in the Student Population of the University System," November 1981) may explain, to some extent, this apparent underrepresentation. The University study was conducted on the Fall 1980 student population, utilizing computer reports of the University's Student

Information System that provide data on the ethnic background of students. The study found that:

> ...Hawaiians and Filipinos are...underrepresented in the applicant pool as well as the student population close to or above their proportional representation in the applicant pool. The only ethnic group significantly below the applicant pool prediction is Caucasian, and this is likely due to the fact that the majority of mainland applicants are Caucasians, and non-resident applicants are significantly less likely than residents to actually enroll. The important aspect of this comparison, however, is that it does not show any evidence of discrimination or bias against Hawaiians or Filipinos in the admissions process. These ethnic groups are underrepresented in the student population primarily because a smaller proportion of their members apply for admission than is the case for other groups. The root causes of this must be sought in social conditions and individual attitudes that are operative prior to the potential college experience...significant gains in representation can only be expected if potential students are reached in their pre-college years (page 2, emphasis in original).

45/ Comment from Donnis H. Thompson, Superintendent, State of Hawaii Department of Education, p. 2. This comment also reflects the results of the study documented in footnote 44, above.

Housing

A. INTRODUCTION

The cost and availability of housing are problems encountered by all U.S. citizens today. The first part of this chapter examines statewide data on housing in Hawaii. It also compares specific housing characteristics and costs for the major ethnic groups in Hawaii. Since some unique features in the housing situation for native Hawaiians have resulted from the Hawaiian Home Lands program, this chapter will also look at these in detail.

A word about some of the data used in this chapter is necessary. All of the 1980 housing statistics for different ethnic groups in the following section were obtained from a special tabulation of the 1980 Census of the Population that the U.S. Bureau of the Census performed for the Native Hawaiians Study Commission. Sources for other data are noted in the text. 1/

B. HOUSING CHARACTERISTICS

Availability

The State of Hawaii reported that in 1981 there were 343,000 housing units in Hawaii. This compares with 217,000 units in 1970. There were also 80,000 condominium units at the end of 1980 and 26,000 military and public housing units. 2/

The physical limitations of an island community will, of course, have an impact on the overall availability of housing. The high population density in Hawaii, particularly on Oahu, is also a factor. In 1980, there were 163.8 people per square mile of land area in Hawaii. This density is comparable to that in California (151.4) and about two and one-half times the population density for the United States as a whole (64). 3/ The de facto population density on the island of Oahu, however, was 1,386.8 per square mile. 4/

The State reports that housing has been in relatively short supply throughout the decade of the 1970's. 5/ Table 48 shows that the 1980 homeowner vacancy rate for Hawaii was 1.4, compared to 1.8 for the United States as a whole. The rental vacancy rates were 10.3 for Hawaii and 7.1 for the United States. 6/ (All tables are at the end of the chapter.)

Cost

The cost of housing is high in Hawaii compared to that in the United States as a whole. The median value of a house in Hawaii is two and one-half times greater than the national median value. (See Table 49.) Per capita income for all persons in the United States and in Hawaii, while Hawaii is higher, are not much different. In 1980, the personal income, per capita, was $10,101 in Hawaii and $9,521 for the United States as a whole. 7/

Data from the 1980 Census allow comparisons of the median value of owner-occupied housing units (non-condominium) in Hawaii for the major ethnic groups. (See Table 50.) The native Hawaiian group of owners has the lowest median value of all groups ($92,800), while the greatest values were reported by the Chinese ($137,900) and White ($134,500) groups.

Median rents paid in Hawaii and in the United States as a whole also differed considerably. Table 51 compares the median contract rents paid in 1970 and 1980 in the United States and in Hawaii. It shows that the median contract rent in Hawaii was $271 in 1980, compared to $198 for the United States. Table 52 shows that in Hawaii, the median contract rent for native Hawaiians was $254, compared to $207 for Filipinos, $326 for Whites, and $271 for the all races group.

Ownership

One result of the high cost of housing in Hawaii is that more people rent. A comparison with total U.S. data shows that 59.7 percent of housing units were owner-occupied for the United States as a whole in 1980, compared to 45.8 percent for Hawaii. On the other hand, 42.8 percent of the housing units in Hawaii were occupied by renters in 1980, compared to only 33 percent in the United States as a whole. 8/

U.S. Census data for 1980 also allow the comparison of owners versus renters by household for Hawaii's ethnic groups. (See Table 53.) The great variation among ethnic groups is striking. Over two-thirds of Chinese and Japanese households are owner-occupied. Filipinos and native Hawaiians are split almost equally between owners and renters, close to the "all races" group average. In the White group, only 43 percent of the households are owner-occupied, which is nine percent less than the "all races" group average.

The Native Hawaiians Study Commission received housing data specifically for native Hawaiians from several Alu Like Island Centers in January 1982. The information on ownership and renting indicates that on the island of Hawaii, 58 percent of the native Hawaiians own homes, while 42 percent rent or lease. Comparable figures for other islands are: Kauai--38 percent own, 62 percent rent; Molokai--73 percent own, 27 percent rent; and Lanai--38 percent own and 62 percent rent. 9/ The data for Hawaii and Molokai indicate a ratio of ownership to rentals close to (or better than, in the case of Molokai) the U.S. average. This probably indicates that the relative cost of owning a home is lower than the State average in the areas where native Hawaiians live.

Other Housing Characteristics

The Bureau of the Census collects other information on specific housing characteristics. Data from the 1980 Census for Hawaii obtained by the Commission allows comparison across ethnic groups of the median number of persons per housing unit, the median number of rooms per unit, and the existence of plumbing facilities. (See Table 54.)

The median number of rooms per unit in Hawaii does not differ greatly among the ethnic groups, particularly for owner-occupied units. There is greater variation among groups when one compares the median number of persons living in each housing unit. Native Hawaiians and Filipinos both have more persons per room (3.53 and 3.95, respectively) than the other groups and the "all races" average (2.82).

Another indicator that is often used to determine type and quality of housing is the extent to which plumbing facilities are available. Table 55 shows these figures for Hawaii's ethnic groups. Although all groups show a very high percentage of complete plumbing facilities for the exclusive use of a single household, the incidence of complete facilities in single-family Filipino domiciles is lower than the others. The incidence of complete facilities in native Hawaiian domiciles is slightly lower than that for other groups (except the Filipino group), and native Hawaiian and Filipino households have similar incidences of partial plumbing facilities.

C. HOMESTEAD HOUSING

Background

The Hawaiian Homes Commission Act of 1920 was enacted by the U.S. Congress to "rehabilitate" native Hawaiians through a government-sponsored homesteading program.*/ For the purposes of the Hawaiian Homes Commission Act, "native Hawaiians" are defined as descendants of not less than one-half-part blood of races that inhabited the Hawaiian Islands prior to 1778. This definition is in contrast to that appearing in Public Law 96-565, which created the Native Hawaiians Study Commission: "any individual whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778." 10/

The program was originally intended to encourage native Hawaiians to "return to the soil" and take up farming and ranching. This goal has never been fully achieved, however. An amendment to the Act in 1923 allowed residential lots of one-half acre or more with a loan limit of $1,000 for the construction of a house. The demand for residential lots has far exceeded the demand for agricultural and pastoral lots ever since.

The Department of Hawaiian Home Lands (DHHL), which is an executive department of the State of Hawaii, administers the Act. The Department derives its funds from seven revolving funds and eight special funds established in the State treasury. They are used to support operating expenses, loan capitalization, and construction projects.

Present Demand

Homestead leases are awarded for residential, agricultural, and ranching uses. However, the vast majority of applications are for residential lots.

There are presently over 7,000 applicants of 50 percent or greater native Hawaiian blood quantum on the waiting list for homesteads. Of these, 6,360, or 87 percent, are waiting for residential lots on the island of Oahu. 11/ Given the current high interest rates and housing costs in the private sector, the Chairman of the Hawaiian Homes Commission expects this demand to "increase dramatically." 12/

DHHL Residential Program

Service Area

There are now approximately 2,700 homestead homes in the DHHL residential program, located on about one percent of the total acreage controlled by the DHHL as homestead land. 13/ The Department estimates that it services some 3,000 families, or a population of 18,000. Table 56 summarizes the homestead lease data by island.

Homes Constructed

Approximately 1,305 new homes have been constructed for homesteaders since 1976. This is an average of 200 homes per year, compared to an annual average of less than 25 during the period from 1950 to 1975. 14/ In 1982, 230 additional homes were scheduled to be constructed on Oahu. The tentative goal of DHHL is to develop an additional 710 residential lots by 1987. 15/

The emphasis in the residential program has been placed on the subdivision concept, under which single family residences are built on all of the islands. The sizes of individual residential lots range from 7,500 square feet on Oahu to one acre on Molokai. 16/

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*/ For a complete review of the homestead program, see Part II, chapter entitled "Review of Hawaiian Homes Commission Programs."

Cost and Program Financing

The greatest problem encountered by the DHHL in its residential program is lack of funds. The DHHL estimates that it costs about $75,000 to place a native Hawaiian family on a residential homestead. The State of Hawaii, through the DHHL, provides the site development and design for residential lots at no cost to the homesteader. These infrastructure improvements include roads, sewers, water, electrical lines, streetlights, and sidewalks. These site improvements cost about $35,000 per unit, and constructing a house costs another $40,000. Here again, the State bears the cost of financing low interest loans or guaranteed loans. 17/ DHHL estimates that it will require $477 million to satisfy the present residential waiting list of 6,360 homestead applicants. 18/

The approximate cost of a home constructed on homestead lands is considerably less than the average cost of home construction in Hawaii in general. Because interest rates are low, the monthly payments by homesteaders are also lower than for others in the State. However, these facts do not take into account the quality of homestead housing. Many homesteaders complain about substandard quality.

Since 1975, the State of Hawaii has provided the homesteading program over $40 million in general obligation bond monies for offsite improvements and loan capitalization. However, this infusion of State funds is not likely to continue because the State Constitution limits its authority to incur debt.

Loans

The DHHL is authorized to make loans from any revolving loan fund to lessees for the following purposes:

(1) The repair, maintenance, purchase, or erection of dwellings on Hawaiian home lands, and the undertaking of other permanent improvements thereon;

(2) The purchase of livestock, swine, poultry, fowl, and farm equipment; and

(3) Otherwise assisting in the development of tracts, farm and ranch operations;

(4) The cost of:

  (a) Breaking up, planting and cultivating land, and harvesting crops;

  (b) Purchase of seeds, fertilizers, feeds, insecticides, medicines and chemicals for disease and pest control for animals and crops, and related supplies required for farm and ranch operations;

  (c) The erection of fences and other permanent improvements for farm or ranch purposes;

  (d) The expense of marketing; and

(5) To assist lessees in the operation or erection of theaters, garages, service stations, markets, stores, and other mercantile establishments, all of which shall be owned by lessees of the department or by organizations formed and controlled by said lessees. 19/

Homesteaders are usually unable to secure loans from traditional lending institutions because they lack the usual collateral required for such loans. The reason for this is that they cannot mortgage the lands they lease. Consequently, the DHHL attempts to fill in the gap by offering low interest loans. For residential lots, loans are made for two purposes: to construct new homes, and to replace old and dilapidated homes. Since 1975, the State of Hawaii has allotted $14 million for loans for these types. 20/

The DHHL also assists homesteaders in arranging other financing. It provides guarantees to assist homesteaders in securing loans from other lending sources such as the Farmer's Home Administration and the (State) Hawaii Housing Authority. The Farmer's Home Administration, through its Section 502 Program, had provided loans in excess of $6 million over several years prior to 1981. 21/

At present, the Department has approximately 1,700 outstanding direct loans totalling about $28 million. It has also guaranteed approximately 650 loans totalling over $12 million to date. Table 57 summarizes the financing for houses constructed with or without DHHL support during 1980-81.

Because they are lessees and not owners, homesteaders also have difficulty in obtaining conventional loans for home repair and improvements. However, DHHL also responds to this need. Table 58 shows the DHHL home repairs program funding for 1980-1981. DHHL financed 20 home repairs and improvements (16 percent of the total) at a cost of $153,000 (26 percent). Lessees personally financed 106 home repairs and improvements (84 percent) at a cost of $445,000 (74 percent).

The 230 homes that the DHHL will construct on Oahu during 1982 will be financed by loans from the State of Hawaii ($7.7 million for 190 loans) and the Farmer's Home Administration ($1.6 million for 40 loans). Interest rates for these loans will range from 8 and 3/4 to 13 percent. 22/

Federal Housing Programs

"Native Hawaiians," as defined in Title III of the Public Law (96-565) setting up the Native Hawaiians Study Commission, are eligible to benefit from the U.S. Department of Housing and Urban Development (HUD) programs in the same fashion and no differently from any other U.S. citizen. However, there are impediments to the use of HUD programs for "Native Hawaiians" on Hawaiian Home Lands.

The HUD San Francisco Regional Office of Program Planning and Evaluation wrote a working paper that discusses these impediments. In summary, it states that:

> Up to the present time, the Hawaiian Homes Commission has not participated in the various HUD housing and community development programs, nor have individual native Hawaiians been able to qualify for insured loans under HUD's single-family insured programs if their potential home was to be located on Hawaiian Home Land.
>
> According to HUD's Honolulu Area Office, there are a number of problems which seem to inhibit HUD's program delivery to native Hawaiians seeking to establish residential homesteads on the Hawaiian Home Lands. These problems result from HUD program and statutory regulations which are in apparent conflict with the Hawaiian Homes Commission Act legislation. They may be categorized as follows:
>
> - Civil Rights Act and HUD Equal Opportunity Regulations, which conflict with Hawaiian Homes

Act eligibility requirements and are inappropriate for application in the State of Hawaii;

- FHA Single Family Insured Program Regulations on marketability and transfer of leasehold interest conflict with HHCA regulations restricting marketability and transfer of leasehold to native Hawaiians exclusively;

- PHA Administered Multifamily Programs regulations require an administrative agency such as a Public Housing Authority (PHA) to be present before multifamily programs can be implemented, and HHC Act is unclear regarding multi-unit development. 23/

HOUSING

TABLES

TABLE 48
VACANCY RATES
1980

	Homeowner	Rental
Hawaii	1.4	10.3
United States	1.8	7.1

Source: U.S. Department of Commerce, Bureau of the Census, Statistical Abstract of the United States: 1981 (Washington, D.C.: U.S. Government Printing Office), p. 762.

TABLE 49
MEDIAN VALUE/NON-CONDOMINIUM
(SPECIFIED OWNER, DOLLARS)

	1970	1980
Hawaii	35,100	118,100
United States	17,000	47,200

Source: Data for 1970, U.S. Department of Commerce, Bureau of the Census, State and Metropolitan Area Data Book, 1979, Statistical Abstract Supplement, p. 76. Data for 1980, Statistical Abstract of the United States: 1981, p. 762.

TABLE 50
MEDIAN VALUE OWNER-OCCUPIED HOUSING UNITS
(NON-CONDOMINIUM), 1980 (Dollars)

All races	118,100
White	134,500
Japanese	115,600
Chinese	137,900
Filipino	99,900
Hawaiian */	92,800

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*/ 1980 U.S. Census data combined the Hawaiian and part-Hawaiian categories.

Source: U.S. Bureau of the Census, Census of the Population: 1980, Special Tabulation.

TABLE 51
MEDIAN CONTRACT RENT
(SPECIFIED RENTER, DOLLARS)
(Per Month)

	1970	1980
Hawaii	120	271
United States	89	198

Source: For 1970, State and Metropolitan Data Book, 1979, p. 76. For 1980, Statistical Abstract of the United States: 1981, p. 762.

TABLE 52
MEDIAN CONTRACT RENT
(DOLLARS, PER MONTH), 1980

All races	271
White	326
Japanese	229
Chinese	250
Filipino	207
Hawaiian */	254

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*/ 1980 U.S. Census data combined the Hawaiian and part-Hawaiian categories.

Source: U.S. Bureau of the Census, Census of the Population: 1980, Special Tabulation.

TABLE 53
OCCUPIED HOUSING UNITS
1980 (PERCENT)

Ethnic Group	Owner-Occupied	Renter-Occuried
All Races	51.7	48.3
White	42.7	57.3
Japanese	68.8	31.2
Chinese	69.3	30.6
Filipino	49.8	50.1
Hawaiian */	49.6	50.1

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*/ 1980 U.S. Census data combined the Hawaiian and part-Hawaiian categories.

Source: U.S. Bureau of the Census, Census of the Population: 1980, Special Tabulation.

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TABLE 54
HOUSING CHARACTERISTICS, 1980

Ethnic Group	MEDIAN ROOMS PER UNIT Total	Owner-occupied	Renter-occupied	MEDIAN PERSONS/UNIT Total	Owner-occupied	Renter-occupied
All races	4.6	5.3	3.7	2.82	3.13	2.48
White	4.6	5.4	4.0	2.40	2.47	2.35
Japanese	4.8	5.4	3.3	2.74	3.10	2.05
Chinese	4.5	5.2	2.9	2.85	3.10	2.27
Filipino	4.3	5.0	3.5	3.95	4.47	3.38
Hawaiian */	4.4	5.2	3.6	3.53	3.94	3.12

*/ U.S. Census data combined Hawaiian and part-Hawaiian categories,

Source: U.S. Bureau of the Census, Census of the Population: 1980, Special Tabulation.

TABLE 55

PLUMBING FACILITIES BY HOUSEHOLD (Percent), 1980

Ethnic Group	Complete plumbing for exclusive use	LACKING COMPLETE PLUMBING FOR EXCLUSIVE USE: Complete plumbing but used by another household	Some but not all plumbing facilities	No plumbing facilities
All races	97.8	0.9	0.9	0.4
White	98.0	0.7	0.8	0.5
Japanese	98.6	0.6	0.6	0.2
Chinese	98.5	1.1	0.3	0.1
Filipino	95.7	1.8	1.7	0.7
Hawaiian */	97.4	0.6	1.5	0.5

*/ U.S. Census data combined Hawaiian and part-Hawaiian categories.

Source: U.S. Bureau of the Census, Census of the Population: 1980, Special Tabulation.

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TABLE 56

SUMMARY OF HOMESTEAD LEASES BY ISLAND, AS OF JUNE 30, 1981

	RESIDENTIAL	FARM		RANCH		
ISLAND	RES. ONLY	FARM w/RES.	FARM ONLY	RANCH w/ RES.	RANCH ONLY	AWARDS
HAWAII						
Kawaihae	7					7
Keaukaha	323					323
Panaewa/Waiakea	142	5	56			203
Waimea	107		27	15	44	193
SUBTOTAL	579	5	83	15	44	726
KAUAI						
Anahola	137		1			138
Kekaha (Puu Opae)	50				2	52
SUBTOTAL	187		1		2	190
MAUI						
Paukukalo	89					89
SUBTOTAL	89					89
MOLOKAI						
Hoolehua	40	176	26		5	247
Kalamaula	5	42	12		1	60
Kapaakea	44					44
O'ne Alii	27					27
Kamiloloa				2		2
SUBTOTAL	116	218	38	2	6	380
OAHU						
Lualualei		1	1			2
Nanakuli	660					660
Papakolea	320					320
Waianae	153					153
Waimanalo	514					514
SUBTOTAL	1,647	1	1			1,649
STATEWIDE TOTAL	2,618	224	123	17	52	3,034

Source: Department of Hawaiian Home Lands, Annual Report, 1980-1981, (Honolulu: Department of Hawaiian Home Lands, 1981), p. 9.

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TABLE 57

HOUSING PROGRAM: 1980-1981

		RESIDENTIAL SINGLE FAMILY HOMES			FUNDING			CONSTRUCTION	
PROJECT	ISLAND	NEW	REPLACE-MENT	TOTAL	DHHL	LESSEE	TOTAL	START	COMP.
Miscellaneous Housing									
Keaukaha Housing	Hawaii	25	1	26	$ 825,000 (25)	$ 24,950	$849,950	02/81	12/81
Kalamaula	Molokai	-	1	1	33,000 (1)	-	33,000	06/81	12/81
Nanakuli	Oahu	1	8	9	261,000 (8)	46,730	307,730	08/80	12/81
Papakolea/Kewalo	Oahu	-	7	7	195,000 (6)	75,590	270,590	06/80	12/81
TOTALS		26	17	43*/	$1,314,000	$147,270	$1,461,270		

*/ Of 43 homes, 40 financed by DHHL and 3 financed by lessee themselves; in 11 homes, the lessee provided supplemental funds beyond $33,000 ceiling.

Source: Department of Hawaiian Home Lands, Annual Report, 1980-1981, p. 43.

TABLE 58

REPAIRS AND IMPROVEMENTS/EXISTING RESIDENTIAL SINGLE FAMILY HOMES, 1980-1981

FUNDING	NUMBER	COST
DHHL	20	$153,000
Lessee	106	$445,000
Total	126	$598,000

Source: Department of Hawaiian Home Lands, Annual Report, 1980-1981, p. 43.

HOUSING

NOTES

1/ A couple of words of caution are necessary about the data used in this chapter. First, as noted in the chapter on "Demographics," the Census data for 1980 included both part-Hawaiians and full-Hawaiians in the category "Hawaiian" and because of the data collection system, the number of native Hawaiians in this category is lower than the number in the State of Hawaii population data. Second, the unique homesteading program for native Hawaiians of 50 percent blood quantum and the housing programs of the DHHL may affect the statistics presented here. According to comments received from the Chairman of the Hawaii Department of Hawaiian Home Lands (DHHL):

> Another factor which affects the housing situation for Hawaiians is the existence of DHHL's housing program. There are about 2,900 leases with residences. Assuming an average household size of 5.0 persons, this amounts to 14,500 persons residing on Hawaiian Home Lands or 8.2% of the total native Hawaiian and Hawaiian population of 175,000 [according to the State of Hawaii population data]. This will affect statistics on Hawaiians cited in the [Commission's] report, for example, number and value of owner-occupied housing units and housing characteristics. If you deduct the number of DHHL-developed residences from these statistics, you will find that the housing situation for Hawaiians is more critical (pp. 1-2).

2/ State of Hawaii, Data Book 1981, A Statistical Abstract (Honolulu: State Department of Planning and Economic Development, November 1981), p. 473.

3/ Data for California and U.S. from U.S. Department of Commerce, Bureau of the Census, Statistical Abstract of the United States: 1981 (Washington, D. C.: U.S. Government Printing Office, 1981) p. 11. Data for Hawaii from Hawaii Data Book 1981, p. 17. Hawaii data suggested in comments received from Hawaii Dept. of Social Services and Housing.

4/ Data Book 1981, p. 17.

5/ Data Book 1981, p. 473.

6/ Comments received from Robert C. Schmitt point out that the rental vacancy rate shown for Hawaii in Table 4 "is very misleading, since all vacant rental units held for transient occupancy are included in the rate" (p. 2). Including "tourist-type," shared ownership or time-sharing condominiums in the vacancy rate "make rental vacancies appear higher and at prices generally above comparable long-term rental units." (Comment from Hawaii Dept. of Social Services and Housing.)

7/ Statistical Abstract of the United States: 1981, p. 429.

8/ Ibid., p. 762. These data may be misleading; see footnote 6 above.

9/ Testimony submitted to the Native Hawaiians Study Commission by: Rachel Kamekana (Molokai, January 10, 1982); Winifred Takoma Hualani Lum (Hawaii, January 12, 1982); Nathan Kahikolu Kalama (Kauai, January 13, 1982).

10/ For an explanation of the definition of "native Hawaiian" in P.L. 96-565, see above, pp. 36-7.

11/ State of Hawaii, Annual Report, Department of Hawaiian Home Lands, 1980-1981, p. 10.

12/ Georgiana K. Padeken, Chairman, Hawaiian Homes Commission, Testimony prepared for the Native Hawaiians Study Commission (January 9, 1982), p. 15.

13/ Ibid.

14/ Ibid.

15/ See Part II, of this report, chapter entitled, "Review of Hawaiian Homes Commission Programs," p. 389.

16/ Ibid.

17/ Padeken testimony, p. 15.

18/ Ibid., p. 16.

19/ Department of Hawaiian Home Lands, Title 10 Administrative Rules, Sec. 10-3-42 (effective July 30, 1981).

20/ Padeken testimony, p. 17.

21/ U.S. Department of Housing and Urban Development, Region IX, "Working Paper on Feasibility of Using HUD Programs on Hawaiian Homelands" (San Francisco: Office of Program Planning and Evaluation, June 1981), p. 5.

22/ Part II, chapter entitled "Review of Hawaiian Homes Commission Programs," p. 389.

23/ HUD "Working Paper," p. 2.

Ancient History To The Reciprocity Treaty

A. ANCIENT HAWAII

The origin of the native settlers of the Hawaiian Islands has not been definitively determined. 1/ While "comparative ethnology, linguistics, and archaeology leave little doubt that Hawaiians were East Polynesian in origin," 2/ scholars do not agree on the origin, timing of the initial settlement, and the number of periods of migration.

Excavations on the island of Hawaii indicate to some that "the first significant settlement of the islands was by people with a cultural assemblage similar to that of archaic East Polynesia and that this settlement occurred sometime prior to A.D. 400." 3/ The island from whence these settlers originated, according to this scholar, has yet to be determined. Other scholars have concluded that: "Early dispersal [from the Marquesas Islands] to the Society Islands, Hawaii, and Easter Island probably took place between A.D. 650 and 800..." 4/ The population and culture of these early settlers developed "largely isolated from changes in other areas of Polynesia." 5/ There is, however, an oral tradition in Hawaii of a period of two-way voyaging between Hawaii and places to the south after this period of isolation. With the use of genealogies for time reckoning, "scholars have estimated that this voyaging would have occurred sometime between A.D. 950 and 1350 if it did in fact take place." 6/ This second migration is said to have had a significant impact on Hawaii, particularly in the area of new religious rites and symbols. 7/

After this period, again according to Hawaiian tradition, there was "no contact with other areas of Polynesia for some twenty generations prior to European contact." 8/ Throughout this period, meanwhile, the Hawaiians were developing complex social, cultural, and political systems.

Every aspect of Hawaiian life was carried out in accordance with deeply implanted religious beliefs. Important events in each individual's life were commemorated with prayers and feasts honoring the person and the family gods. Significant events in everyday life began and ended with appropriate rituals, including house building, canoe making, fishing, and farming. Gods were invoked for every purpose from warfare to sports tournaments. 9/

Besides the great gods of Hawaii (by the time of the missionaries there were four: Kane, Ku, Lono, and Kanaloa), there was an infinite number of subordinate gods descended from the family line of one or another of the major deities. These gods were worshiped by particular families or by those who pursued special occupations. All forms of nature were thought of as bodily manifestations of spirit forces. Some Hawaiians worshiped their gods in the form of images, while others worshiped without any concrete form. 10/

There was a kapu, or taboo, system that was closely intertwined with this religion, as well as with the governmental and social organization of Hawaii. The word kapu means a prohibition or restriction. The kapu system was used to regulate every aspect of ancient Hawaiian life of all classes of society and, according to one historian, "insured the subordination of the lower to the higher." 11/ Another author explains the meaning of kapu as follows:

> In its fundamental meaning tapu [kapu] as a word was used primarily as an adjective and as such signified that which was psychically dangerous, hence restricted, forbidden, set apart, to be avoided, because: (a) divine, therefore requiring isolation for its own sake from both the common and the corrupt; (b) corrupt, hence dangerous to the common and the divine, therefore requiring isolation from both for their sakes. 12/

Everything associated with the gods was sacred and there were many kapu surrounding priests and anything else related to the gods. Chiefs were believed to be descended from the gods and were surrounded by a great number of kapu, depending on their rank and, hence, degree of sacredness. The best known of the kapu that affected all classes was the prohibition against men and women eating together. Women were also forbidden to eat certain foods such as pork, and certain types of bananas, coconuts, and fish. 13/

The social system of the islands consisted basically of the king, followed by the ali'i (chiefs) of various degrees, kahuna (priests/advisors), and the maka'ainana (commoners). There was also a slave class, the kauwa, below the maka'ainana, but little is known about it. 14/ The king was regarded as sacred and held the power of life and death over his subjects. His executive duties included warfare, questions of state, and overseeing the performance of religious rites. 15/

The king and ali'i of the highest rank were protected by the strictest of kapu, in order to preserve their mana (divine power) and the beneficence of the gods, upon which the entire kingdom depended for its prosperity. Great care was taken to secure noble offspring with the purest genealogy and thus ensure the continuation of the dynasty and the good favor of the gods. A suitable partner for a chief of the highest rank was his full-blooded sister. The child of such a union would be a "chief of the highest rank, a ninau pi'o, so sacred that all who came into his presence must prostrate themselves." 16/ For this reason, the genealogies of the kings were carefully preserved by their descendants to determine the purity of the bloodline of both partners. 17/

The political system of the islands consisted of small kingdoms under ali'i, with four main groupings: Hawaii, Maui, Oahu, and Kauai. Competing ali'i waged wars against each other, and, as a result, boundaries advanced and retreated according to the ability and ambition of their sovereigns. 18/ There was much discussion in the comments received by the Commission about whether the ancient land system could be termed "feudal." 19/ Authors disagree on the subject. William Russ states that "a feudal regime prevailed," 20/ and describes the relationships among the various classes in feudal terms. Lawrence Fuchs says that: "The religious, family, and property systems of feudal Hawaii and feudal Europe were different, but there were many parallels between the two." 21/

Regardless of the term employed, written descriptions of the system are similar. The following is from Jon Chinen, a noted Hawaiian land expert, who does not use the word "feudal:"

> When Kamehameha The Great brought all the Hawaiian Islands under his control at the beginning of the Eighteenth Century, he simply followed the land system that had existed within the Islands from ancient

> times. After selecting the choicest lands for his personal use, the king distributed the rest among his warrior chiefs, who had assisted in his conquests. These warrior chiefs, after retaining certain parcels of land for themselves, reallotted the remaining lands to the inferior chiefs, who in turn reallotted portions of their lands to their own followers. These reallotments of lands continued down the scale to the lowest tenants, the common farmers who actually tilled the soil.
>
> All of these allotments of lands, from the warrior chiefs down to the commoners, were on a revocable basis. What the superior gave, he was able to take away at pleasure. Thus, there was no security of land ownership under the ancient Hawaiian land system. 22/

There is one significant difference between the Hawaiian land system and European feudal systems. The periodic upheavals that resulted in control of land passing to the conquering ali'i affected the latter much more than the commoners since: "the maka'ainana were the fixed residents of the land; the chiefs were the ones who moved from place to place." 23/ The maka'ainana could, if they were displeased with the way the chief treated them, move to the lands of another chief. They were bound to serve the chiefs, but not any particular chief. Malo reports that the "people made war against bad kings in old times" and overthrew chiefs who continually mistreated them. 24/

The Commission also received comments disputing the statement that the maka'ainana lived in an "intolerable" condition. 25/ Here again, authorities disagree. David Malo, a Hawaiian writing in the 1830's, was of the opinion that:

> The condition of the common people was that of subjection to the chiefs, compelled to do their heavy tasks, burdened and oppressed, some even to death. The life of the people was one of patient endurance, of yielding to the chiefs to purchase their favor...It was the maka'ainana also who did all the work on the land; yet all they produced from the soil belonged to the chiefs. 26/

Liliuokalani (Hawaii's last monarch), on the other hand, had a very different view of the ancient system:

> ...it has been at times asserted by foreigners that the abundance of the chief was procured by the poverty of his followers. To any person at all familiar, either by experience or from trustworthy tradition, with the daily life of the Hawaiian people fifty years ago, nothing could be more incorrect than such assumption. The chief whose retainers were in poverty or want would have felt, not only their sufferings, but, further, his own disgrace. As was then customary with the Hawaiian chiefs, my father was surrounded by hundreds of his own people, all of whom looked to him, and never in vain, for sustenance. He lived in a large grass house surrounded by smaller ones, which were the homes of those the most closely connected with his service. There was food enough and to spare for every one. And this was equally true of all his people, however distant from his personal care. For the chief always appointed some man of ability as his agent or

> overseer. This officer apportioned the lands to each Hawaiian, and on these allotments were raised the taro, the potatoes, the pigs, and the chickens which constituted the living of the family; even the forests, which furnished the material from which was made the tapa cloth, were apportioned to the women in like manner. It is true that no one of the common people could mortgage or sell his land, but the wisdom of this limitation is abundantly proved by the homeless condition of the Hawaiians at the present day. Rent, eviction of tenants, as understood in other lands, were unknown; but each retainer of any chief contributed in the productions of his holdings to the support of the chief's table. 27/

The early inhabitants of Hawaii developed an economic system that was, by necessity, self-sufficient. Hawaiians lived off the abundance of land and the sea, harvesting and catching only what they needed to satisfy their immediate needs. The basic land division of the islands for landholding purposes was the ahupua'a. The ideal ahupua'a extended from the sea to the mountain. Within each ahupua'a, commoners engaged in the activities necessary to support themselves and the chiefs. The lowlands were used for cultivation of taro and bananas, the sea for fishing, and the forests in the mountains supplied bark for cloth and bird feathers for ornaments. 28/

In agriculture, a fairly sophisticated system of irrigation was developed to bring the large amounts of water necessary to grow taro to the dry lands. Periodically, droughts would occur, forcing the people to survive on roots and ferns.

The sea provided an important source of livelihood and sustenance. The Hawaiians were expert fishermen and skillful navigators. As with agriculture, strict kapu controlled the amount of fish caught and the seasons during which they could be caught, creating an efficient conservation scheme.

Other occupations necessary to supply the needs of the culture included house-builders, canoe-builders, and bird-catchers (who collected feathers for the magnificent Hawaiian capes, cloaks, and helmets). 29/

B. ISOLATION IS SHATTERED

The long isolation of the Hawaiian islands ended with the arrival of Captain James Cook of the British Navy. Captain Cook was on his third exploratory voyage to the South Pacific, travelling from the Society Islands to the northwest coast of America, when he sighted Oahu and Kauai on January 18, 1778. He christened the island group the Sandwich Islands, in honor of his benefactor, the Earl of Sandwich.

On January 19, the two ships under Cook's command, the Resolution and the Discovery, landed on Kauai and traded bits of iron (precious on the islands) for foodstuffs. Thus began the trade between Hawaiians and ships stopping at the islands to rest and replenish that would continue for generations.

Cook and his crew were enthusiastically received by the natives. At first they were somewhat confused at the great respect and awe with which the natives, even the king and chiefs, beheld Captain Cook. When the two ships left Kauai and landed at Niihau, the natives were just as impressed with the ships and just as interested in trading, especially for iron.

Cook continued his voyage north, searching for a sea passage from the Pacific to the Atlantic Ocean. After eight months of a frustrating and unsuccessful search, Cook returned to winter in the islands that had been so friendly during his last stopover. The ships made stops at Maui and Hawaii where they were visited by the kings of those islands, each with their chiefs, bearing gifts for Captain Cook. Word had been received from Kauai and Niihau about the wonders of the ships and their occupants.

It was during this stopover that the ship's crew realized that the special treatment received by Captain Cook from the natives was more than just respect for a superior technology. In fact, Captain Cook was thought by the natives to be Lono, the god of the makahiki harvest and of agriculture. This mistaken identity is easily understood. The symbol for Lono that appeared on his banner "consisted of a tall pole and cross bar...decorated with large sheets of white kapa (or cloth)." 30/ The similarity to the rigging of a ship, which the natives had never seen before, must have been considered more than coincidental.

As the ships were leaving the island of Hawaii, the foremast of the Resolution was damaged. Cook returned to Kealakekua Bay on the Kona Coast of Hawaii to make the necessary repairs. While there, some altercation occurred between the natives and the crew of the ships. As a result, one of the ship's cutters was taken. Captain Cook went ashore on February 14, 1779, with the intention of holding the king, Kalaniopuu, hostage on his ship pending the return of the boat. When the natives advanced to protect the king, a battle broke out and Cook was slain.

How could Cook be killed by those who considered him a god? The timing of this last visit has an important bearing on the explanation. Mid-February is the end of the makahiki celebration, with which Lono was associated. During the makahiki, the image of Lono "was carried all around the island, stopping at the boundary of each district (ahupua'a) to receive the taxes." 31/ For warrior chiefs, the makahiki season, with its sports and other pastimes, was only a breathing space to gather strength for the important business of politics and dedicating state temples once again to the war god, Ku. So they were not overly impressed by the presence of Lono. Besides, by the end of this second visit one historian speculates that 32/ "chiefs and commoners alike had had time enough to see far more humanity than divinity among Cook's men." 33/ The same historian explains what happened in this way:

> It was not the Hawaiians as a people who deified Cook, but the priests of Lono. It was not the Hawaiians as a people who killed him, but the chiefs and their fighting men, devotees of Ku, the war god, acting as protectors of their ruler, Kalaniopuu, against the incursions of a god who might very well not be a god, and whose period of ascendancy was in any case drawing to an end. Cook died in a distorted realization of the symbolic conflict that marked the close of the makahiki season. 34/

After the death of Cook, the Resolution and the Discovery departed and several years passed before another ship stopped at the islands. After 1786, however, the fur trade began to develop along the northwest coast of America, and more and more ships came to stop at the islands.

The earliest American contact with the islands appears to be in 1789. In that year Captain Robert Gray, commanding a small Boston trading craft, the Columbia, stopped at the islands on his way to China. By 1800, the trans-Pacific fur trade was almost completely monopolized by New England ships, and the number of American craft stopping in Hawaii increased accordingly. 35/

C. TRANSFORMATION AND CHANGE (1796-1825)

The arrival of foreigners caused changes in the economy of Hawaii and accelerated political and social transformations already under way. For the natives, these changes were profound. One author writes:

> Despite the unification of the islands, the period of Kamehameha's rule was, for the Hawaiian people, one of disintegration, owing to decimation from war, the infiltration of Western commercial practices, the avarice of the chiefs and priests, the spread of haole diseases, and, perhaps most important, the breakdown of the Hawaiian religion. 36/

Political Unification--Kamehameha I

The last quarter of the eighteenth century found all the islands of the group caught in the midst of bitter civil wars. Rival chiefs fought each other to gain control of the entire group, a feat never before accomplished.

The great King Kamehameha I finally succeeded in subduing all of the islands except Kauai and Niihau in 1796. The latter two islands were ceded without a battle in 1810. Even today it is a source of pride for the residents of Kauai that their island was not militarily conquered by Kamehameha.

Several reasons are given for the success of Kamehameha in the face of so many other failures to unite the islands. Among them are the presence of foreigners and their aid in the form of both guns and advice, and the feudalistic character of the Hawaiian society in which loyalties were not static. However, probably the most important reason was the personality and the ability of Kamehameha himself. 37/

At the conclusion of the civil wars, the islands prospered as commoners were free to return to agricultural pursuits. Kamehameha, as had all conquering kings before him, distributed his lands among the ali'i and maintained the basic social and kapu systems.

Economic Changes

The arrival of foreigners brought drastic changes in the economic and material system of the native inhabitants. In the first part of the nineteenth century, Hawaii developed from a basic subsistence economy into a trading center. New products were introduced and Hawaiians traded their produce to acquire them. Port areas like Honolulu on Oahu and Lahaina on Maui were built up to handle the trade.

At first, it was the fur trade that caused ships to winter and replenish in Hawaii on their way to and from the Orient. This economic phase was followed by the sandalwood trade from about 1810 to 1830. In the 1820's, the whaling industry replaced sandalwood as the chief commercial activity and reached its zenith from 1840 to 1860.

The growth of trade with foreigners, as the number of ships stopping at the islands increased, created a market economy alongside the traditional subsistence economy. Because the feudal character of the society continued for the natives, the ali'i made new demands on the maka'ainana to service this trade. The most extreme example of this occurred in the sandalwood trade. Hundreds of commoners were forced to gather the fragrant wood for the ali'i to trade with the foreigners. The results of this subjugation included the practical extinction of sandalwood, the neglect of agriculture, and the worsening of the health of the natives, already weakened from diseases introduced by the foreigners. 38/

The Kapu System Falls */

More important than the political and economic changes occurring in the first part of the 1800's was the religious and social significance of the breaking of the kapu system after the death of Kamehameha I in 1819. In that year his son, Liholiho, succeeded him to the throne as Kamehameha II. The new king would not rule alone, however. The dowager queen, Kaahumanu, became the kuhina nui (premier) and exercised substantial authority in running the government.

Although she exercised substantial power, Kaahumanu was still barred from exercising it to the fullest because of her sex. The kapu barring women from the luakini heiau, where one author states that political and religious decisions were made, were very strict. Therefore, soon after Kamehameha died, Kaahumanu began urging Liholiho to abolish the kapu system altogether. 39/

The new king hesitated at first, but he eventually acquiesced to the daring plan of the kuhina nui. The breaking of the kapu system, a truly revolutionary move, was symbolized by ai noa or "free eating"--the king eating with women, breaking the strict kapu against men and women eating together.

The erosion of belief by Hawaiians in the kapu system had begun years before. It is reported by some historians that Kaahumanu herself, along with numerous other women, had begun to break the onerous kapu against them years before. Despite the kapu forbidding it, women had been swimming out to the ships, risking death to do so. The existence of foreigners also served to weaken belief in the kapu system. The ali'i themselves "often had trouble deciding where kapu began and ended in connection with [foreigners]." 40/ Then again, the ali'i may have been convinced by the fact that foreigners did not observe kapu of "the ineffectiveness of the taboos, and, observing the superiority of haole cannon over Hawaiian clubs, of haole ships over native canoes,...began to doubt the power of their ancient gods." 41/

The decision to make such a radical departure from tradition was made by a "handful of chiefs. The commoners, as usual, followed where their ali'i led." 42/ Although they were probably relieved that the more onerous religious restrictions had been lifted, many did not abandon the old faith completely. When Liholiho ordered all the heiau (worship places) destroyed, some Hawaiians salvaged images of their gods. There was some resistance to the breaking of the kapu system on the part of ali'i who were champions of the gods, and a revolt broke out. However, the king succeeded in putting the revolt down in December 1819.

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*/ See also chapter below, entitled "Native Hawaiian Religion," pages 232 to 234.

The elimination of the kapu did not change existing societal relations:

> The fact that the chiefs had tested the patience of the gods did not cost them the support of the commoners;...The fall of the kapu...was an incomplete revolution. It left relations between chiefs and commoners more or less as they had been, but changed relations between chiefs, freeing each of them to try his skill at amassing and using political power in new ways. 43/

Arrival of Missionaries

The first group of American missionaries was sent by the American Board of Commissioners for Foreign Missions, an interdenominational body whose members were primarily Presbyterian and Congregational. 44/ This first mission consisted of four Hawaiians who had been educated at the Foreign Mission School, two ordained ministers (Hiram Bingham of Vermont and Asa Thurston of Massachusetts), and several lay specialists (a farmer, a printer, two teachers, and a physician). The group was instructed to take a broad view of its mission, "to aim at nothing short of covering the islands with 'fruitful fields and pleasant dwellings, and schools and churches.'" 45/

The Hawaii that the missionaries saw when they arrived off the coast of the island of Hawaii on March 30, 1820, was much changed from the Hawaii first viewed by Captain Cook in 1778. The Hawaiian Islands and people had been irrevocably changed by contact with traders, explorers, and foreign residents. Demoralization was one result of this contact. The Hawaiian social order had been transformed--kapu had been abolished, idols destroyed, and the authority of the priests was thrown in question. The timing of the arrival of the missionaries was auspicious. Acceptance was assured when the powerful kuhina nui, Kaahumanu, supported the missionary endeavor.

The austere New England missionaries introduced totally different mores into Hawaiian society, compounding the confusion and disruption resulting from the economic, political, and social changes discussed above. Two conflicting views are represented by Hawaiian and missionary thinking:

> The Hawaiians believed life was to be lived here and now; the men from colder climes insisted that life on earth was merely preparation for everlasting life beyond. 46/ Even in this life, the Hawaiian was not usually trying to prove his virtue, or improve his status; to the New England missionaries, life was a continuous struggle for moral and material self-improvement to receive God's grace. To the Hawaiian, the sharing of food, hut, and woman came naturally; the New Englanders maintained a stern sense of privacy concerning property and person. Sex to Polynesians was pure joy; to these haole, a grim and burdensome necessity. Children born in or out of wedlock received the affection of the Hawaiians, to Bingham and his friends, bastards were conceived in sin. 47/

The role of the missionaries in Hawaii continues to be a complex and controversial issue. Many native Hawaiians still bear hostile feelings against these people who "stole their land." 48/ Indeed, the acquisitions of the missionaries and their descendants in Hawaii became extensive. When they first arrived, the missionaries were prohibited from owning any land. This policy was reversed in the 1840's to counteract the "homeward current" of missionaries who had been there for several years and felt it was time to return to the

United States to educate their children. 49/ The future impact of this was significant:

> A strong and aggressive foreign element, mainly American, purloined political power from the Kanakas [natives], and made itself wealthy by entering business, trade, and commerce. Although most of them were no longer missionaries, they were called the "Missionary Party"--in derision--by the natives who saw themselves being progressively relegated to the rear. The numerically inferior, but culturally superior, Americans became not only the leading businessmen but also the chief politicians and governing officials. Royal officers after the 1850's seldom bore Hawaiian names. 50/

This domination continued into the twentieth century, particularly in business. Another author notes that: "By 1935, exactly one-third of the directors and officers of the forty-five sugar plantations and factors in Hawaii were direct descendants of or related by marriage to the original missionary families of the Islands." 51/

There is another side of this story, however. The missionaries did accomplish more than their own self-aggrandizement. For example, they "set up the first printing press west of the Rockies, developed the Hawaiian alphabet, established schools throughout the Islands, printed textbooks, translated the Bible into Hawaiian, and promoted constitutional government under the Kingdom." 52/ The primary goal of the missionaries was to preach and convert, but much time was spent in the beginning teaching and transcribing the Hawaiian language. Their success in education can be seen in the large number of Hawaiians enrolled in schools and the high literacy rates recorded. Whether or not this record of activity was of benefit to the native Hawaiians is difficult to say. Fuch states that:

> The missionaries did have a tremendous impact, and by speeding the process of social change, they contributed to the psychological demoralization of the Hawaiians. The Hawaiian language, dance, and art were degraded. The land, property, political and religious systems were under constant attack...[However,] [e]ven without the missionaries, it is unthinkable that Hawaiian culture and people could have withstood the sudden impact of Western civilization. Indeed, the missionaries often helped arrest some of the decay. 53/

The traders and explorers, who had come to consider the islands of Hawaii their personal paradise, did not appreciate the missionaries' zeal in teaching the natives traditional New England mores. As more natives, and particularly the ali'i, embraced the new faith, more forceful attempts were made to control the debauchery of the sailors by proscribing their activities. The kapu most detested by the sailors was the one placed on women to keep them from the ships. The conflict arising from this clash of desires resulted in the first formal laws of the kingdom, promulgated by the king (see below).

Sailors were not the only group with whom the missionaries did not see eye to eye. In 1827, French Catholic missionaries arrived at Honolulu. The Protestant missionaries eventually influenced the chiefs to expel the Catholic priests. Nevertheless, they persisted in their attempts to establish a mission. Native converts and priests alike continued to suffer persecution until 1839. This fact was one of the primary reasons that the Hawaiian government would have problems in its foreign relations with France for years to come.

Foreign Policy

With a growing foreign population, it became necessary for Hawaiian kings to construct a "foreign policy" for the first time. Kamehameha I considered himself and his kingdom to be under the protection of Great Britain, a view also held by the king's sucessor, Kamehameha II. As will be seen below, there developed among the great powers a continuous rivalry to assert their rights and influence in the island kingdom.

The king and his chiefs felt threatened by the riotous behavior of the sailors and the demands, mainly for land, of other foreigners. To solidify Hawaii's standing against these encroachments, it was felt that the backing of Great Britain was necessary. Therefore, Kamehameha II travelled to Great Britain to meet with King George V to discuss the possibility of a British protectorate for Hawaii. Unfortunately, a measles epidemic broke out in London and both Kamehameha II and his wife died of the disease in 1824. The meeting with King George never occurred.

D. THE REIGN OF KAMEHAMEHA III (1825-1854)

The reign of Kamehameha III was the longest in Hawaiian history--from 1825 to 1854. Many changes occurred during this time: the establishment of a system of laws, and, eventually, a constitutional government; formal relationships with foreign governments; land reform; and commercial, social, and educational developments.

Creation of a System of Laws

Kauikeaouli, younger brother of Kamehameha II, was a minor when he succeeded to the throne of Hawaii after the death of his brother in London. The kingdom was still governed by the powerful Kaahumanu until her death in 1832.

The first laws appeared in the kingdom before the death of Kamehameha II, made necessary by the increasing problems involved with reconciling the newly-acquired Christian principles of the natives with the unruly behavior of the sailors in the port areas. The earliest printed laws were the "Notices" of 1822 on disturbing the peace. In 1827, three laws were adopted against murder, theft, and adultery.

During the regency of Kaahumanu, there had been a general tightening of laws and restrictions placed on both natives and foreigners. After her death in 1832, the missionaries worried that, without her powerful support, many of their gains in promoting what they considered a Christian nation would disintegrate. They were not wrong. The king, at eighteen, had no sympathy for the new religion. In his rebellion against the puritanical laws imposed during the regency of Kaahumanu, the king abrogated all laws except those against theft and murder. He embarked on a "kind of inventive guerrilla war on Christian morality." 54/ The commoners followed his example and the missionaries despaired as the moral laws they had worked so hard to have accepted were ignored.

One author attributes this attitude of the king to cultural and political reasons:

> In the revival of the hula and ancient games we recognize elements of the racial culture struggling for expression after a long period of forced retirement. There was also during these two years (1833 and 1834) a protracted struggle between the king and the older chiefs resulting from the decision of the king to terminate

> the regency and from what looks like an attempt on his part to regain for the crown as much as possible of the power which had gradually passed into the hands of the council of chiefs. 55/

The king's rebellion came to an end in June, 1834. 56/ At that time, Kamehameha III retired from actively governing the kingdom and allowed the new kuhina nui, his half-sister Kinau, and the chiefs to run the government, as they had before the death of Kaahumanu.

Meanwhile, the problems inherent in governing a foreign population that frequently called upon warships to back up their claims continued to plague the ruling chiefs. The majority of the claims against the government by foreigners dealt with land and property rights. Unfamiliar with Western property rights and laws, the chiefs decided that it would be necessary to establish more formal laws and government in the kingdom to answer these claims.

To begin this process, a request was made to the United States in 1836 by the chiefs for a teacher of economics and political science. When no suitable teacher could be found, William Richards, a missionary, became "chaplain, teacher and translator" to the king in 1838. 57/ This is the beginning of the formal involvement of missionaries in the government of the Hawaiian kingdom. During the 1840's more missionaries formally joined the king's cabinet: the physician Gerrit P. Judd; Lorrin Andrews, former principal of Lahainaluna; and Richard Armstrong, pastor of Kawaiahao Church in Honolulu. Missionaries who joined the government were required to break formal connection with the American Board of Commissioners for Foreign Missions.

Other white men found their way into the government from diverse backgrounds: John Ricord became attorney general; William Little Lee became chief justice of the Hawaiian supreme court while still in his twenties; Robert C. Wyllie served as foreign minister for twenty years. The numbers and influence of these men in the government grew. By the end of 1844, there were fourteen white men working for the government. This number grew to forty-eight by 1851--twenty-five Americans, twenty-one Englishmen, one Frenchman, and one German. Each foreigner in the government had to sign an oath of allegiance to the king as a condition of employment. 58/

Once Richards began to advise the king and the chiefs, "it became clear that the government could not be remade to suit foreigners without bringing in revolutionary changes in the relationship between chiefs and commoners." 59/ As a first step, in 1839 the king announced a policy of religious toleration (relieving pressure on the Catholics). In the same year, the king proclaimed the Declaration of Rights and Laws, a sort of civil code (called the "Hawaiian Magna Carta"). This document defined and secured for the first time the rights of the commoners who, prior to that time, had had no rights, but were subservient to the ali'i. This was the first result of the decision by the king and chiefs to codify the laws of the kingdom.

Prior to the Constitution of 1840, Hawaii's form of government was difficult to define because it was constantly changing. During the reign of Kamehameha I, it was a feudal aristocracy. During the reign of Kamehameha II and the minority of Kamehameha III, the importance of the office of the kuhina nui was enhanced and the chiefs began to encroach on the authority of the king. From their beginning as an advisory council, the chiefs eventually came to have legislative power. 60/

After deliberation by the chiefs and the king's advisors, a constitution was signed by the king and kuhina nui in 1840. The Constitution of 1840 put in writing for the first time a plan of the government and a description of the powers and duties of various officials within the government. In brief, the constitution provided that:

- The king and the kuhina nui together wielded supreme executive authority.
- Four governors, subject to the king and kuhina nui, would have charge of matters of government not assigned to other officials.
- The lawmaking power was lodged in a legislative body consisting of two branches: a council of chiefs, including the king and kuhina nui (later called house of nobles), and a representative body chosen by the people.
- A supreme court was created to be composed of the king, kuhina nui, and four other judges appointed by the lower branch of the legislature.

Three Organic Acts adopted from 1845 to 1847 elaborated on the constitution. They set up an administrative and judicial system of the Anglo-American type. The first act defined the organization of the executive branch. The second defined the functions of the five executive departments, including an article that established a Board of Commissioners to Quiet Land Titles. The third organized the judiciary.

Through these Organic Acts, the administrative and judicial systems developed more toward the Anglo-American style advocated by the foreigners holding positions in the government. As the number of these foreigners in the government increased, protests were made to the king by native Hawaiians. In 1845, a petition was sent to the king from Lahaina asking him to dismiss all naturalized foreigners he had appointed as officers of the kingdom. 61/ The petition was not acted upon.

At the same time, the land system was undergoing drastic changes from the previous system. The Great Mahele of 1848 divided land in the kingdom into two parts--land belonging to the king and land belonging to the konohiki, or chiefs. The next day, after the last mahele (division) with the konohiki, the king divided his land again in two parts with the larger part designated as "government" land under the control of the legislative council. The smaller part was known as the "Crown Lands" and belonged to the king. At about the same time, kuleana were awarded in fee simple to native Hawaiian tenants.*/

By 1851 the Constitution of 1840 was out of date, given the numerous developments in the government system since that time. A new constitution was approved by the legislature in 1852. The powers of government were divided into executive, legislative, and judicial branches. The king was declared the "Supreme Executive Magistrate," although his powers were somewhat limited by the kuhina nui. The privy council continued to play an important role. Ministers were appointed by the king, as were governors. Legislative power was vested in the king, the house of nobles, and the house of representatives, each with veto powers over the others.

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*/ For a more complete explanation of the land system changes, see Part II, "Land Laws and Land Relationships."

In order to understand future constitutional activity of the kingdom, it is important here to point out the differences between constitutions of the Hawaiian Kingdom and of the United States. 62/ Unlike the system in the United States, the Hawaiian monarch was believed to have had the right to promulgate and abrogate constitutions, since the original constitution was granted by the king and not by "We the people." 63/ One Hawaiian writer states that: "By proposing the action of the constitution of 1852 the king set a precedent that he could, with the consent of the legislature, change the constitution." 64/

Relationships with Foreign Governments

These early years of the reign of Kamehameha III saw increasing problems with foreigners. The government, particularly its white members, struggled to achieve an aura of gravity that would command the respect of the foreigners in the islands. Calling upon warships to back up the claims of foreign citizenry continued unabated, however. The ability of the kingdom to survive on its own became increasingly questionable. David Malo wrote at this time that "such has always been the case with large countries, the small ones have been eaten up." Evil, he wrote, was at the door, ready to "come in and bite us." 65/ The treaties the king had already signed with foreign governments were disadvantageous to Hawaii and did little to protect the sovereignty of the kingdom.

Relations with the French were at a particularly low ebb. Besides the religious persecution of Catholics in Hawaii, the passage of an act in 1838 prohibiting importation and purchase of distilled liquors and imposing a duty of $1/gallon on imported wines was particularly irksome. The problem came to head in July 1839. The commander of a French frigate, Captain Laplace, threatened to use force if the king did not accede to several demands made by the French in Hawaii. To avoid bloodshed, the king signed a convention with the French (known as the "Laplace Convention") and announced a policy of religious toleration.

The convention the king was forced to sign contained two clauses that circumscribed the power of the king:

- Frenchmen accused of "any crime whatever" would be judged by a jury composed of foreigners, proposed by the French consul; and
- French merchandise was not to be prohibited nor pay a higher duty than 5 percent ad valorem. 66/

To prevent foreign governments from taking further advantage of Hawaii, the king and his council decided that more formal relationships should be established with foreign governments. To accomplish this, a delegation was sent by the Hawaiian Government in 1842 to negotiate for formal recognition and new treaties with the United States, Great Britain, and France, to replace the existing informal and disadvantageous conventions. The delegation was composed of Sir George Simpson (Governor of the Hudson's Bay Company), William Richards, and Timothy Haalilio (a Hawaiian in the Government).

The mission succeeded in the United States. The first formal recognition of Hawaii's independence was in the form of a document given to the Hawaiian envoys by U.S. Secretary of State Daniel Webster on December 30, 1842. The document stated that the United States was more interested in Hawaii than any other nation and that "no power ought either to take possession of the islands as a conquest, or for the purpose of colonization, and that no power ought to seek for any undue control over the existing Government, or any exclusive privileges or preferences in matters of commerce." 67/ The document was sent to Great Britain and France and became known as the "Tyler Doctrine," after the then-President John Tyler.

Having successfully completed their negotiation in the United States, the king's representatives left for Europe to continue their quest for formal recognition. Before they could complete negotiations for recognition in Europe, however, the "Paulet Affair" intervened.

Lord Paulet, captain of the British frigate Carysfort, was sent to Honolulu to protect British interests as a result of complaints--mainly about land--by the acting British consul in Honolulu, Alexander Simpson. Paulet made demands on the Hawaiian government and threatened to fire upon Honolulu if they were not met.

To avoid conflict, the king made a provisional cession of the islands to Great Britain on February 25, 1843. Until the end of July, the Hawaiian Islands were under the British flag. When it was informed of what Paulet had done, the British Government disavowed Paulet's act and sent Rear Admiral Richard Thomas to restore Hawaiian sovereignty, which he did on July 31, 1843.

After this episode was resolved, the Hawaiian delegation continued their European negotiations. Finally, on November 11, 1843, a joint declaration was signed in London by which the Queen of Great Britain and the King of France recognized the independence of the Sandwich (Hawaiian) Islands. The United States refused to sign the declaration on the grounds that it was contrary to America's policy of avoiding entangling alliances. Instead, the United States stood by the Tyler Doctrine.

Despite this formal recognition of independence, inequitable treaties were still a problem for Hawaii. In 1844, the British presented the Hawaiian Government with a convention with objectionable articles similar to those of the Laplace Convention of 1839. The government signed the convention but wrote to the head of the British foreign office seeking modifications. New treaties were signed with Britain and France in 1846, still with objectionable articles on trade preferences and the composition of juries.

In the mid-1840's and 1850's Hawaii was finally able to achieve equitable treaties. In 1846 Hawaii signed a satisfactory treaty with Denmark that did not contain the restrictive clauses of the British and French treaties. Eventually, even Britain and the United States relaxed their discriminatory attitudes. By the 1840's, the articles of arrangement with the United States, which had first been negotiated in 1826, had ceased to be regarded as a valid treaty. A new treaty satisfactory to the Hawaiian Government was signed in 1849 and remained in effect until the annexation. The American treaty served as the basis for a new, more equitable treaty with Great Britain, signed in 1851. In turn, this treaty was the basis for treaties with Sweden and Norway in 1852.

Thus Hawaii progressed toward more equitable treaty relations. France was an exception, since it continued to insist upon articles objectionable to the Hawaiian Government. Moreover, most-favored-nation clauses enabled other nations to claim the benefits of the restrictive clauses in the French treaty.

Trade and Annexation

Economic development in the late 1840's and early 1850's foreshadowed the dominant role the United States would play in economic and political matters in Hawaii through the rest of the century. The latter years of the reign of Kamehameha III saw an increase in trade between Hawaii and the West Coast of the North American continent. The primary impetus was the acquisition of California and Oregon by the United States, the discovery of gold in California, and the subsequent influx of population requiring supplies more easily obtained from Hawaii than from the U.S. eastern seaboard.

This expansion of the United States to the Pacific engendered an "exuberant expansionism," and convinced many that "it was the 'manifest destiny' of the United States to overspread the whole North American continent and the adjacent islands." 68/ Kuykendall notes that this expansionism would have a significant impact on Hawaii. Specifically, it gave birth in the United States to the idea that Hawaii should be annexed to the American Union, and aroused apprehension in Hawaii as to the possible effect of "this onflowing and seemingly resistless tide upon the destiny of the little island kingdom." 69/

The sugar industry progressed in Hawaii, stimulated by the new markets on the U.S. West Coast. One problem with this market, however, was the high U.S. tariff wall and the necessity to compete with low-cost sugars from Manila and China. Labor supply became a problem as the sugar industry grew concurrently with the decline in the native Hawaiian population. Approximately 200 Chinese contract laborers were brought in for the first time to alleviate the shortage during 1852.

Trade goods were not the only commodity some Hawaiians thought might be travelling between California and Hawaii. Rumors abounded that groups of filibusterers were poised in San Francisco ready to descend upon Hawaii and attempt to overthrow the government.

Other troubles at this time also put the political stability of the monarchy in doubt again. The French menaced once more, sending warships to Hawaii. Then a smallpox epidemic broke out. Partially as a result of the way the epidemic was handled, there was a political upheaval in 1853 and one of the king's ministers, Gerritt Judd, was dismissed.

During this upheaval the topic of annexation to the United States came to the fore. Some viewed annexation as "Manifest Destiny;" others considered it the means to ensure that the islands did not fall into the hands of Great Britain or France; everyone knew that the economy of the islands would benefit if the U.S. tariff on sugar could be eliminated. 70/

The king, beset by internal squabbles, annexationists, and external pressures, began to despair of the future. Secretly, he sent a proclamation to the United States Commissioner requesting assistance in case Hawaii were attacked. The proclamation said, in part, that the king and kuhina nui:

> Hereby proclaim as our Royal will and pleasure, that all our Islands, and all our rights as sovereign over them, are from the date hereof, placed under the protection and safeguards of the United States of America until some arrangements can be made to place our said relations with France upon a footing compatible with my rights as an independent sovereign,...or if such arrangements should be found impracticable, then it is our wish and pleasure that the protection aforesaid under the United States of America be perpetual. 71/

The U.S. Commissioner and members of the king's government drew up a document setting forth alternative plans for the United States to save Hawaii from the danger of filibustering or threats from foreign governments. In order of preference, these were:

- A joint protectorate by the United States, Great Britain, and France;
- A protectorate under the United States and Great Britain;
- A protectorate by the United States alone;
- If no protectorate could be arranged, resignation of sovereignty to the United States. 72/

After communicating these developments to Washington, however, the United States Commissioner was informed by the U.S. Secretary of State that he was not to give countenance to "any idea or expectation that the islands will become annexed to the United States." 73/

All of these negotiations came to a halt without being resolved. Rumors of filibustering proved untrue, relations with France improved somewhat, and Kamehameha III died on December 15, 1854. His successor, Prince Alexander Liholiho, did not reopen the discussions and supporters of annexation in Hawaii gave up their agitation for the time being. However, interest had been piqued in the United States by these developments. Fear that France would take over the Hawaiian Islands had stimulated talk of annexation, particularly in California.

E. THE REIGNS OF KAMEHAMEHA IV AND V (1854-1872)

Politics and Sugar

Prince Alexander Liholiho, nephew and heir of Kamehameha III, ascended the throne as Kamehameha IV in December 1854. His reign lasted until his death in 1863. This Hawaiian monarch had very different ideas about relations with foreign governments, in general, and with the United States, in particular.

In the foreign realm, the policy of the government of Kamehameha IV consisted of three parts:

1) To substitute for the pending annexation project a treaty of reciprocity between the United States and Hawaii;

2) To get a satisfactory treaty with France and place the relations between the two countries on a cordial footing; and

3) To obtain a joint guarantee of Hawaii's independence by the great maritime powers, Great Britain, France, the United States, and possibly Russia, by means of a tripartite or quadripartite treaty. 74/

Of the three parts of this policy, only the second met with some success. A new treaty between Hawaii and France was ratified in 1858 and, although still not satisfactory, the treaty was "in some important respects an improvement over the old one." 75/

One of the first steps taken in pursuit of the foreign policy goals of Kamehameha IV was to break off all negotiations for annexation to the

United States. 76/ In general, the reign of Kamehameha IV marked the beginning of the turning away from American influence and toward a closer relationship with England. This relationship with symbolized by the introduction of the Anglican Church into Hawaii by the king and his wife, Queen Emma. 77/ The king and the chiefs feared that the great preponderance of American interests (particularly missionary interests) in Hawaii would lead to the overthrow of the monarchy, annexation, and the eventual extinction of the Hawaiian race. 78/ The close call with annexation in the waning years of the reign of Kamehameha III (which Alexander Liholiho had opposed, as prince and heir apparent) confirmed this suspicion.

Meanwhile, these years were years of economic transition. Whaling declined as the primary industry, while the sugar industry grew dramatically. After the California gold rush, the sugar industry went into a depression in Hawaii. However, the U.S. Civil War provided the necessary boost in the market to make Hawaiian sugar the primary export of the islands. Another factor in the increase in output at this time were improvements in mills, machinery, and production methods.

The plantation agency system developed to promote the industry. The system, which was set up by the larger business houses in Honolulu, provided capital to and served as centralized agents for individual plantations. The larger of these estabishments would eventually consolidate into the "Big Five" sugar factors (agents).

The problem of labor supply became acute, spurred by the growth of the agriculture industry and the continued decline in the native population. 79/ More Chinese laborers were brought in, but this was not a popular policy, particularly among native Hawaiians. The first Japanese laborers were brought to Hawaii in 1868. In 1869, Hawaiians held meetings during which several resolutions were passed against further importation of Chinese contract labor and expressing the opinion that "the government should bring here the people--men, women and children--of a cognate race with ourselves, as laborers, and to increase the population of our group." 80/

In 1871, a treaty of friendship and commerce was concluded with Japan. The treaty contained provisions that "the Hawaiian Government expected to open the way for an extensive immigration of Japanese laborers to Hawaii." 81/ This goal was not reached until after many years of negotiation, however.

The continued growth of the sugar industry depended on the existence of an accessible market. For this reason, the question of annexation was still alive in the minds of sugar planters, who were most interested in getting out from under the heavy import duties imposed upon them by the U.S. Government. The Hawaiian Government proposed an alternative--a reciprocity treaty with the United States to permit U.S. and Hawaiian goods to be exchanged free of duty. An emissary was sent to Washington to negotiate such a treaty but it did not pass the U.S. Senate. The Hawaiian sugar industry was afforded some relief, however, when the U.S. tariff was lowered in 1859. In late 1866 the reciprocity treaty was once more brought forward, but it was again defeated in the U.S. Congress.

One of the reasons for the defeat of the treaty, according to Kuykendall, was the mission of Zephaniah S. Spalding. He was sent to Hawaii in late 1868 by U.S. Secretary of State Seward 82/ "to observe and report to Seward on the situation in the islands and the probable effect of the reciprocity treaty that was then pending in the Senate." 83/ According to Kuykendall, Spalding was "strongly opposed to the reciprocity treaty, and was in favor of annexation, which he thought would be hastened by rejection of the treaty." 84/ Spalding's report probably had some, although not major, influence on the treaty's rejection by the U.S. Congress. 85/

Plight of the People

As a result of the constitutional developments described above, native Hawaiian men had the right to vote for the members of the kingdom's house of representatives. They did not, however, share in the growing prosperity of the kingdom.

The native population continued its precipitous decline. Liholiho singled out the problem of the decrease in the native population in his speech opening the legislature in 1855. He suggested a two-fold attack on the problem: reduction in loss caused by disease, and encouragement of Polynesian immigrants to reinforce and reinvigorate the Hawaiian stock. The latter plan was eventually accomplished through labor immigration, although it was not always to the satisfaction of the native Hawaiians, as noted above.

To improve the economic well-being of the native Hawaiians, efforts were made by Kings Kamehameha IV and V to interest them in the growing agricultural industry. Some native Hawaiians did grow potatoes, but the potato as a cash crop did not survive long. The Native Hawaiian Agricultural Society was set up in 1856, but it was not very successful in encouraging greater production from Hawaiians. Growing sugar required large-scale operations and was monopolized by Americans. The native Hawaiians did not share the white man's view of the future in terms of profit and loss, and the result was that the native population existed on the fringes of the impending economic boom.

Constitutional Change

On the death of Liholiho on November 30, 1863, his older brother (Prince Lot) succeeded to the throne as Kamehameha V. Unlike his predecessor, Kamehameha V did not take the oath to uphold the kingdom's constitution, promulgated in 1852.

Even during the reign of Liholiho, the king and his advisors had attempted to amend the Constitution of 1852. The most objectionable features of the latter included the existence of the office of the kuhina nui, the power of the privy council, universal male suffrage, and the absence of property qualifications for members of the House of Representatives.

King Kamehameha V believed that the Constitution of 1852 was far in advance of the needs of the people, and he called a convention to draft a new constitution. When the convention deadlocked on the question of property qualifications, the king adjourned the convention, abrogated the old constitution and promulgated a new one a week later. The principal changes embodied in the Constitution of 1864 were:

- The office of kuhina nui was abolished;
- The powers of the privy council were curtailed, while the administrative powers of the king and cabinet were strengthened;
- The nobles and people's representatives would sit together as the legislative assembly; and
- There would be property qualifications for the representatives and property and educational qualifications for voters.

As noted above, the power of the king to unilaterally abrogate the constitution was accepted by native Hawaiians. Of the action of Kamehameha V, Liliuokalani says:

> It has already been seen that the right of life and death was unchallenged; that whatever it may be in other countries, as late as an epoch thirty years in the past [i.e., mid-1860's] it belonged to the highest chief of the Hawaiian people...Let it be repeated: the promulgation of a new constitution, adapted to the needs of the times and the demands of the people, has been an indisputable prerogative of the Hawaiian monarchy. 86/

F. LUNALILO (1873-1874)

Kamehameha V died in December 1872 without naming a successor. On his deathbed he asked the High Chiefess Bernice Pauahi (Mrs. Charles R. Bishop) to be his successor, but she declined. As provided for in the constitution, the national legislature was responsible for choosing the new monarch. An informal popular vote was held and the result was a large majority for Lunalilo, a cousin of Kamehameha V (the other contender was David Kalakaua). The legislature confirmed the election.

The kingdom that Lunalilo took over was encountering severe economic difficulties. The islands' economy became more and more dependent upon the United States as the sugar industry continued to expand. The reciprocity treaty became more important with the serious financial depression in Hawaii in 1872. Talk of annexation surfaced, but the weight of public opinion, even among the haole population, was against it. The king and legislature submitted for U.S. review the idea of a reciprocity treaty in return for the cession of Pearl Harbor. Some of the king's advisors had told him that this would make passage of the treaty much more probable. There was a public outcry against such a scheme by the native population, however, and the latter proposal was withdrawn.

Meanwhile, the U.S. Government was ascertaining the military importance of the Hawaiian Islands in general and Pearl Harbor in particular. Early in 1873 Major General John M. Schofield, commander of the United States Army Military Division of the Pacific, and Brevet Brigadier General B. S. Alexander, a lieutenant colonel in the Corps of Engineers, arrived in Honolulu. 87/ Ostensibly on a vacation trip, the secret purpose of the men's visit was to report to U.S. Secretary of War W. W. Belknap on the "defensive capabilities of the different ports and their commercial facilities." 88/ The report, which was made public twenty years later, "emphasized the value of Pearl Harbor and discussed the means of making it available for naval and commercial purposes." 89/

In the political realm, Lunalilo did succeed in having some amendments to the Constitution of 1864 adopted, including the repeal of the property qualifications for voters. Other policies were not as popular, however. The continuing public health problem with leprosy resulted in strict enforcement of the law sending lepers to Molokai--in two years over 500 lepers were sent to facilities there that were already over-extended. This policy caused the government to lose much popular support.

Lunalilo died of pulmonary tuberculosis in February 1874 after barely a year on the throne. He became the first Hawaiian monarch to leave his property to a benevolent institution--the Lunalilo Home for poor, destitute, and infirm people of Hawaiian blood.

Since Lunalio died without an heir, the legislature once again had to choose a king. David Kalakaua was elected after a campaign in which he was opposed by Queen Emma, the widow of Kamehameha IV. This election changed the line of succession from the Kamehameha line to the Kalakaua line.

G. THE RECIPROCITY TREATY (1875)

King Kalakaua was in favor of a reciprocity treaty. Shortly after he assumed the throne, he travelled to the United States as a "good-will" ambassador to promote its passage. Some credit the eventual passage of the treaty to the favorable impression he made. Of this trip, Liliuokalani says:

> Yielding to the wishes of those residents of his domain who were from American or missionary stock, my brother [Kalakaua] had organized the negotiation of a treaty of closer alliance or reciprocity with the United States...The result of this visit is well known. It secured that for which the planters had gained endorsement of the king, it resulted in the reciprocity treaty of January 30, 1875. 90/

Liliuokalani states that support for the treaty was not unanimous in Hawaii. Some protested that it would "put in peril the independence of our nation." 91/

The reciprocity treaty finally passed the U.S. Congress and was signed in mid-1875 without the clause on Pearl Harbor. It went into effect in 1876. The treaty was renewed in 1887 with a clause giving the U.S. Government exclusive right to use Pearl Harbor, and this treaty remained in effect until June 1890.

The 1876 treaty provided that unrefined sugar, rice, and almost all other Hawaiian products would be admitted to the United States free of duties. In return, a long list of American products and manufactured goods were admitted into Hawaii. The treaty also provided that, as long as it was in effect, Hawaii could not offer the same kind of treaty to any other nation.

The primary effect of the treaty was a tremendous upsurge in the sugar industry. Records show that in 1875, before the treaty was in effect, 25 million pounds of sugar were exported. By 1890, that amount had increased ten-fold--250 million pounds of sugar were exported. 92/

Since sugar cane requires large amounts of water, extensive irrigation was begun. With an assured market, more capital was available to make such improvements. The agency (or factor) system became more important, because it offered a centralized system to sell and ship crops, finance new ventures, and purchase equipment needed by plantations. With the growth in output, the need for labor also increased. More than 55,000 immigrant laborers were brought to Hawaii between 1877 and 1890. Approximately one-half of these were Chinese. Others were Japanese, Portuguese, and European. 93/

However, the most significant consequence of the reciprocity treaty was the development of powerful economic ties between Hawaii and the United States. These economic ties then intensified the political consequences of the treaty. Russ believes that:

> The political consequences of this reciprocity agreement cannot be overestimated. When Hawaii was finally annexed in 1898, practically everybody

> agreed that the first real step had been reciprocity, that is to say, economic annexation. 94/

The events that took place from 1875 to 1898, when Hawaii was annexed to the United States, are reviewed in Part II, "Diplomatic and Congressional History: From Monarchy to Statehood," below.

NOTES

1/ This section on the origin of ancient Hawaiian settlers was revised as a result of suggestions for the use of additional sources by Violet Ku'ulei Ihara of the Bishop Museum, Honolulu.

2/ H. David Tuggle, "Hawaii", in The Prehistory of Polynesia, Jesse D. Jennings, editor (Cambridge, Massachusetts: Harvard University Press, 1979), p. 189.

3/ Ibid.

4/ Yosihiko H. Sinoto, "The Marquesas," in The Prehistory of Polynesia, p. 131.

5/ Tuggle, p. 189.

6/ Ibid.

7/ Ibid.

8/ Ibid., p. 171.

9/ Donald Kilolani Mitchell, "Religious Beliefs and Practices," from Resource Units in Hawaiian Culture (Honolulu: The Kamehameha Schools, 1982), p. 1.

10/ Martha Warren Beckwith, Hawaiian Mythology (Honolulu: University of Hawaii Press, 1970), p. 81.

11/ Ralph S. Kuykendall, The Hawaiian Kingdom, Volume I, 1778-1854, Foundation and Transformation (Honolulu: University of Hawaii Press, 1968), p. 8. Hereinafter referred to as "Kuykendall Volume I."

12/ E. S. C. Handy, Polynesian Religion (Honolulu: Bernice P. Bishop Museum Bulletin 34, 1927), quoted in Kuykendall, Volume I, p. 8.

13/ Mitchell, p. 35. Elaboration of explanation of kapu system added at the suggestion of Violet Ku'ulei Ihara.

14/ Kuykendall, Volume I, p. 9. Change suggested by Violet Ku'ulei Ihara.

15/ The Commission received several comments from individuals on the issue of genealogy, royal succession, and differing claims to the former Hawaiian throne. (See, for example, comments by Rory Soares Toomey, Ralph L. Heidenreich, Victoria Mews, Beatrice Kulia-Ika-Nuu Anderson, and George T. H. Pai.) One comment notes that: "...it would be inappropriate for the [Native Hawaiians Study Commission] to attempt to resolve the issue of royal succession" (Beatrice Kulia-Ika-Nuu Anderson). The Commission agrees; it is outside the purview of the Commission's mandate to issue an authoritative statement on the differing claims to the former Hawaiian throne. The Commission's Report does not specifically address the issue of succession. Any statements that may seem incidentally to relate to this issue are not meant to address or prejudice any current claims.

16/ David Malo, Hawaiian Antiquities (Moolelo Hawaii) (Honolulu: Bishop Museum Press, 1951), p. 80.

17/ Ibid., p. 80.

18/ Thomas Marshall Spaulding, The Crown Lands of Hawaii, University of Hawaii Occasional Papers, No. 1 (Honolulu: University of Hawaii, October 10, 1923), p. 3. This article was submitted as a comment and can be found in the Appendix. A comment received from John J. Hall states that: "Boundaries never changed, even after contact. *Ahupua'a* remained stationary, only alii moved...If warfare was as extensive as historians report, the environment would show the effects and the literature does not support such a situation." The quotation from Spaulding refers to boundaries pertaining to land under a particular chief and not to boundary changes of particular *ahupua'a*.

19/ For example, Congressman Daniel Akaka says that the Commission's early history of Hawaii "relies far too heavily on a comparison with the feudal structure such as it existed in Europe during the Middle Ages." Comments by the Office of Hawaiian Affairs note that: "It is important to note that the concept of fee-simple ownership of the land was unknown to Hawaiians. The alii...did not own the land..., they merely managed the land and other resources." Haunani-Kay Trask states that calling the Hawaiian system feudal, "is a false rendering of the Hawaiian land tenure system *which did not include the following feudal structures*--obligatory military service; bondage to the land; ownership by the kings and chiefs." [Emphasis in the original.]

20/ William Adam Russ, Jr., *The Hawaiian Revolution (1893-1894)* (Gettysburg, Pa.: Times and News Publishing Co., 1959), p. 30.

21/ Lawrence H. Fuchs, *Hawaii Pono: A Social History* (New York: Harcourt, Brace and World, Inc., 1961), p. 6.

22/ Jon J. Chinen, *Original Land Titles in Hawaii* (Honolulu: Jon J. Chinen, 1961), p. 7.

23/ Malo, p. 88.

24/ *Ibid*. p. 85.

25/ See Draft Report of Findings, Native Hawaiians Study Commission, p. 107. Comments received from Haunani-Kay Trask, *et al*, state that: "Hawaiian commoners enjoyed more rights to the land in precontact Hawaii than under the private property system brought by the West." In another comment, Kawaipuna Prejean states that: "Our Alii was unlike the slave masters of Europe who expected the citizens of the soil to do all the work and keep the royalty in its opulence. The Chiefs of old, before falling victim to germ warfare deliberately introduced by the invaders to decimate the race, toiled in the earth with the Makaainana or citizens of the soil" (pp. 1-2). See also, Haunani-Kay Trask, "An Historical Over-view of Hawaii: Pre-Contact to the Present," a paper prepared at the direction of and funded by the Office of Hawaiians Affairs. This paper is reproduced in full in the Appendix of this Report.

26/ David Malo, quoted in Kuykendall, *Volume I*, p. 9.

27/ Liliuokalani, *Hawaii's Story by Hawaii's Queen* (Rutland, Vermont: Charles E. Tuttle Company, 1964), p. 3.

28/ Chinen, *Original Land Titles in Hawaii*, p. 52. On various aspects of daily life, see also paper by Haunani-Kay Trask, "An Historical Overview of Hawaii."

29/ Kuykendall, *Volume I*, p. 9.

30/ Mitchell, p. 8.

31/ Kuykendall, *Volume I*, p. 8. Added as a result of comments received from Violet Ku'ulei Ihara. See also chapter below on "Native Hawaiian Religion," page 231.

32/ That the following quote is the author's speculation was pointed out by Violet Ku'ulei Ihara.

33/ Gavan Daws, Shoal of Time: A History of the Hawaiian Islands (New York: The MacMillan Company, 1968), p. 26.

34/ Ibid., p. 27.

35/ Merze Tate, The United States and the Hawaiian Kingdom: A Political History (New Haven: Yale University Press, 1965), p. 1.

36/ Fuchs, p. 7.

37/ Kuykendall, Volume I, p. 29.

38/ Ralph S. Kuykendall and A. Grove Day, Hawaii: A History, from Polynesian Kingdom to American Commonwealth (New York: Prentice-Hall, Inc., 1948), p. 43.

39/ Daws, p. 56.

40/ Ibid., p. 57.

41/ Fuchs, p. 9.

42/ Daws, p. 59.

43/ Ibid., pp. 59-60.

44/ Kuykendall, Volume I, p. 100.

45/ Daws, p. 62.

46/ It was pointed out in a comment from Violet Ku'ulei Ihara that, contrary to what this quotation implies, "Hawaiians did prepare for spiritual hereafter." See also, the chapter below on "Native Hawaiian Religion," page 227.

47/ Fuchs, p. 9.

48/ Comments from Haunani-Kay Trask, et al, state the following: "While it is true that the missionaries were prohibited from acquiring land while they were members of the American Board of Commissioners for Foreign Missions, they in fact began to acquire land in enormous quantities after they left the mission. Here, the bias towards the missionaries is extreme in this section for two reasons: they are removed of responsibility for bringing diseases and cultural degradation that hastened the decline of Hawaiians, and they are elevated to the point of actually appearing as redeemers of the people. The facts, however, are otherwise. Missionaries are responsible for taking land, bringing death and disease, and for imposing a foreign religion which severed the Hawaiians' relationship to the earth. They are the harbingers of colonialism in Hawaii, and their descendants controlled most of the sugar plantations--the Big Five corporations of Castle and Cooke, Alexander and Baldwin, and C. Brewer all had missionary connections. Moreover, there needs to be a discussion of the role of missionary-descended individuals in the overthrow of the monarchy, and particularly in the creation and functioning of the Provisional Government."

The text of the report has been revised by the Commission in an attempt to address Trask's concerns. As to the missionaries "bringing death and disease," most authors place the blame for this on the foreigners who arrived in Hawaii prior to the missionaries. For example, Fuchs states that: "Between Cook's visit and the arrival of the first missionary band from New England, disease, war, and famine had taken nearly half of the population...Until the arrival of nine missionary doctors forty-two years after Cook's discovery, the natives were without protection against the new diseases" (Fuchs, p. 13).

49/ Kuykendall and Day, p. 77.

50/ Russ, The Hawaiian Revolution, p. 3.

51/ Fuchs, p. 249.

52/ *Ibid.*, p. 12.

53/ *Ibid.*, pp. 12-13.

54/ Daws, p. 92. A fuller discussion of this period can be found in Daws, pp. 91-93, and Kuykendall, *Volume I*, pp. 133-136. This section was rewritten to correct the "Western bias" of the Draft Report noted by Congressman Daniel Akaka.

55/ Kuykendall, *Volume I*, pp. 134-135.

56/ Revised as a result of comments from Congressman Daniel Akaka.

57/ Kuykendall, *Volume I*, p. 154.

58/ Daws, p. 108.

59/ *Ibid.*, p. 107.

60/ Kuykendall, *Volume I*, p. 157.

61/ *Ibid.*, p. 259.

62/ Comment received from John M. Agard, submitting publication by Louis K. Agard, Jr., entitled *The Sandalwood Trees; Politics and Hope*.

63/ *Ibid.*, p. 9.

64/ *Ibid.*

65/ Quoted in Daws, p. 111.

66/ Kuykendall, *Volume I*, p. 166.

67/ *Ibid.*, p. 194.

68/ Kuykendall, *Volume I*, p. 383. Discussion of U.S. expansionism included as a result of comments by Haunani-Kay Trask, *et al*.

69/ Kuykendall, *Volume I*, pp. 383-384.

70/ Daws, p. 147.

71/ Kuykendall, *Volume I*, p. 402.

72/ *Ibid.*, p. 403.

73/ *Ibid.*, p. 406.

74/ Ralph S. Kuykendall, *The Hawaiian Kingdom, Volume II, 1854-1874, Twenty Critical Years* (Honolulu: University of Hawaii Press, 1966), p. 38. Hereinafter referred to as "Kuykendall, *Volume II*."

75/ Kuykendall, *Volume II*, p. 54.

76/ *Ibid.*, p. 38.

77/ Kuykendall and Day, p. 105.

78/ Kuykendall, *Volume II*, p. 36.

79/ Comment by Louis Agard, p. 16, says that: "Contrary to many reports, native Hawaiians did not leave the field work. As late as 1869, several plantations employed all native Hawaiian labor. By 1870, while the native population was declining, there was a tremendous expansion of sugar production from two million to 20 million pounds annually. The demand for increased production and with it for increased labor, was so great that the labor had to come from outside the kingdom."

80/ Kuykendall, *Volume II*, p. 190.

81/ *Ibid.*, p. 236. See also publication by Louis Agard, p. 15.

82/ Discussion of Spalding added at suggestion of comment by Alexander H. Raymond, who says: "...Secretary of State William H. Seward sent Secret Agent Z. S. Spalding to Hawaii with personal instructions to investigate ways and means to acquire Hawaii through annexation...Using his inside knowledge of exactly how far the U.S. was willing to go in order to obtain sovereignty over the Native Kingdom, Mr. Spalding later became one of the richest plantation owners in Hawaii by speculating on sugar increases and purchasing land from bankrupt natives."

83/ Kuykendall, *Volume II*, p. 216.

84/ *Ibid.*, p. 217.

85/ *Ibid.*, p. 223. Kuykendall ascribes more importance to the correspondence of a Captain Reynolds, commanding officer of an American warship anchored off Hawaii during reciprocity discussions in the kingdom's legislature.

86/ Liliuokalani, pp. 20-21. See comment by Louis Agard, p. 9, where he says: "Based on the precedents, the small band of foreigners acting as the 'Committee of Safety' had no authority to intervene when Queen Liliuokalani proposed a new constitution which she later retracted."

87/ Discussion of Schofield mission inserted as a result of comment by Kawaipuna Prejean, p. 5.

88/ Belknap to Schofield, confidential, June 24, 1872, War Dept. Records, quoted in Kuykendall, *Volume II*, p. 248.

89/ Kuykendall, *Volume II*, p. 248. Kuykendall also speculates on the reasons for the mission at that particular time: "...the only obvious special circumstances that might have called it forth were the strained relations between the United States and Great Britain and the current interest of the United States in the development of steamship lines across the Pacific" (*Ibid.*, p. 249, footnote).

90/ Liliuokalani's views on reciprocity added in response to a comment from Congressman Daniel Akaka that "it would be interesting to review and contrast the comments of Queen Liliuokalani regarding that Treaty and the motivation of the planters."

91/ Liliuokalani, p. 55.

92/ Kuykendall and Day, p. 152.

93/ *Ibid.*, p. 156.

94/ Russ, *The Hawaiian Revolution*, p. 12.

Native Hawaiian Culture

A. INTRODUCTION

The culture of native Hawaiians is manifested in many facets of daily life. One of the most important for any culture is language. The Commission was fortunate to have an expert on the Hawaiian language write that section for the Commission's Report. The second section of this chapter discusses culture in a different context--historic preservation.

Another important aspect of the lives of ancient and even present-day native Hawaiians is the religion as practiced prior to the coming of the American missionaries. The next chapter contains information on the native Hawaiian religion, also written by a foremost expert in the subject.

B. THE HAWAIIAN LANGUAGE */

Introduction 1/

Anthropologists and cultural experts recognize the crucial role played by language in identifying people. Language demonstrates the uniqueness of a people, carrying with it centuries of shared experience, literature, history, traditions and reinforcing these through daily use.

A unique Polynesian language restricted to the Hawaiian Islands is inextricably tied to the definition and identity of the Hawaiian people. The language is in fact known to the world by the same name as the people themselves--Hawaiian. However, it terms itself 'ōlelo Hawai'i, or Hawai'i language, thus like the English term recognizing the indigenous status of the language unique to these islands.

There is no mention of the origin of the Hawaiian language in the oral traditions. The words of the progenitors, Papa and Wākea, are recorded in Hawaiian and it is assumed that the existence of a separate Hawaiian language is as old as the existence of the Hawaiian people. Although composed of many small communities and four primary geographical divisions, the ancient inhabitants were able to make a distinction between their own language and languages existing outside the traditional boundaries of Hawai'i. The sense of ethnicity is recorded in the chant of Kūali'i, in which a pre-European voyager from the island

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*/ The following section is a complete reproduction of the paper prepared by Larry L. Kimura, entitled "Language Section of Native Hawaiians Study Commission Report" (February, 1983), written at the direction of and funded by the Office of Hawaiian Affairs. Mr. Kimura is an instructor in Hawaiian Language, Department of Indo-Pacific Languages, at the University of Hawaii, Manoa campus. Minor editorial changes have been made to conform to the Final Report's format, and the footnotes have been renumbered. Except for these changes, (cont'd) Mr. Kimura's paper appears as submitted by OHA and is otherwise unchanged. The spelling of Hawaiian words as they appeared in the original paper has also been retained, even though the spelling of some words differs from that used in the remainder of this Report. The references used by Mr. Kimura appear in the "List of References," marked with a "[2]". OHA subsequently sent supplementary information on the Hawaiian language to the Commission, [illegible] from Mr. Kimura, and this material is included in the Appendix of this Report.

of O'ahu describes Kahiki, a term used for all lands outside of Hawai'i:

> Ua 'ike ho'i au iā Kahiki
> He moku leo pāha'oha'o wale
> Kahiki
> ...
> 'A'ohe o Kahiki kanaka
> Ho'okahi o Kahiki kanaka - he
> Haole 2/
>
> I have seen Kahiki
> Kahiki is an island with a
> puzzling language
> ...
> Kahiki has no people
> Except for one kind - foreigners

Many Hawaiian */ families trace part of their ancestry to voyagers from these foreign lands called Kahiki. Regular sound correspondence between k in Hawaiian with t in other Polynesian languages supports an identification of at least one Kahiki with Tahiti. Linguistic analysis of Hawaiian supports a theory that the language has its closest relatives in the Marquesas, Society, and other island groups of French Polynesia, some two thousand miles to the south. There still remains a certain amount of mutual intelligibility between Hawaiian and other Eastern Polynesian languages such as Tahitian, Cook Islands Maori, and New Zealand Māori, as shown in Table 59. (All tables appear at the end of the chapter).

The similarity among Polynesian languages has been overemphasized by casual observers who have erroneously claimed that Hawaiian and other Polynesians all speak but "dialects" of a single language. 3/ Linguists generally accept distinct languages (as opposed to dialects) as having more than 70 percent of their basic vocabulary as cognate. Hawaiian shares 56 percent of its basic vocabulary with Marquesan and only 46 percent with Tahitian, the two languages most closely related to Hawaiian, according to linguists. Given the independent status of the Hawaiian language, it is notable that Hawaiians and other Polynesians in the independent nations of the South Pacific readily recognize the relationship among their languages and put much emphasis on this even in official government business between Hawai'i and their countries.

Unlike New Zealand Māori and Marquesan, which exhibit a number of rather different dialects, differences within Hawaiian are quite minor and were probably never much greater than today. The lack of major dialect differentiation within Hawaiian can be attributed in part to the lack of stable groupings of people, such as tribes or clans, in the traditional political system. In pre-contact times, there was continuous interchange among the various lineages across the whole island chain and constant redefinition of political boundaries across districts and islands. Tradition mentions an individual from the island of Hawai'i named Kalaunuiohua who nearly succeeded in conquering the entire island chain at one time. 4/ Usually, however, Maui controlled the neighboring islands of Moloka'i, Lāna'i, and Kaho'olawe, with Hawai'i and O'ahu as separate units, and Kaua'i controlling neighboring Ni'ihau. The greatest contrasts in speech within Hawaiian are between

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*/ Mr. Kimura uses the term "Hawaiian" in the same way that "native Hawaiian" is used in the majority of this Report; that is, to signify those persons who have any amount of the blood of those who inhabited the Hawaiian Islands prior to 1778.

the most isolated parts of the Kaua'i kingdom (for example, Ni'ihau), the Maui kingdom (for example, the Kaupō area), and the Hawai'i kingdom (for example, the Puna district). The differences are primarily in the pronunciation of the consonants symbolized with k, l and w, intonation, speed of speech, and small differences in vocabulary. There are no significant grammatical differences. The standard dialect taught in schools is that of O'ahu, the site of the capital. Table 60 gives examples of differences among the different areas. 5/

The Cultural Importance of Hawaiian

In the introduction, reference was made to the inseparable identity between all peoples and their languages, and the extreme importance of language as the bearer of the culture, history, and traditions of a people. This in itself is more than sufficient reason for the Hawaiian language to be valued above all else in the cultural context. In comparing Hawaiian culture with other cultures, however, is there any reason that language might be judged relatively more important or less important in a Hawaiian cultural context? Given the current weak status of the Hawaiian language it is unfortunate that the Hawaiian culture is in the top percentage of the world's cultures stressing the importance of language.

It is appropriate here that a few examples of the Hawaiian language in action be given to illustrate the three basic features that make language such an important factor of Hawaiian culture: (1) the necessity of language to human activity in order to identify it as human or, in a narrower perspective, Hawaiian; (2) the importance of subtlety, personality, and detail, that is, nicety in expression; and (3) the power of the word.

Human Activity

An example of the importance of language in human activity is best illustrated in the area of music and dance. Many cultures of the world (for example, Plains American Indian, European folk cultures, and classical European culture) emphasize dance and music with only instrumental accompaniment or minimal use of words (such as war and social dances of the Sioux, the polka and jig of Europe, and classical ballet). Such art forms appear simple in a Hawaiian context. Hawaiian culture placed great emphasis on language as the means of human artistic development. An example of this exists in the nī'au kani and 'ūkekē (instruments using the mouth as a sound box). Words are formed in the mouth and echoed out with the vibrations of the instrument. Even the nose flute is designed to free the mouth for the formation of words, but since it is almost impossible to form words and play the nose flute at the same time, a custom of using note combinations to stand for words between initiates is associated with the instrument. These extreme examples illustrate the importance given by people to language (the ultimate human characteristic) in the Hawaiian culture.

Subtlety, Personality and Detail

A further complicating factor in Hawaiian culture is that subtlety and personalization are highly favored. This leads to the use of symbolism and veiled references in ordinary speech as a device for emphasizing a point without blatant bragging, criticism, or questioning. The use of symbolism and veiled reference is especially evident in the poetry utilized in the chants that are used in everything from ordinary greetings to the recitation of genealogies. Subtlety and personalization are further accomplished in chant by using special grammatical and pronunciation complications that make the message even less flat or blatant. 6/

Intense personalization of the language in itself has led to a proliferation of very specific terms, especially relating to natural beauty, which lends itself well to Hawaiian poetry. An extreme example is seventeen individual names for various winds of tiny Hālawa Valley on the island of Moloka'i, in comparison to the North American continent as a whole, for which far less names are generally known by English speakers. There are, of course, many other wind names throughout the Hawaiian Islands, detailed rain descriptions, special seas, colors, and so on, as shown in Table 61.

Hawaiian attention to terms for life forms has impressed biologists in that it is based on the same principles invented for biological taxonomy by the Swede, Linnaeus (for example, ulua aukea, Caranx ignobilis; ulua 'ele'ele, Caranx melampygus). Hawaiian terminology goes even beyond the requirements of modern biology with special terms for different sizes of fish, recognizing four growth stages for some fish and fewer for others (for example, pua'ama, "mullet under a finger length;" kahaha, "mullet about eight inches long;" 'ama'ama, "mullet about twelve inches long;" 'anae, "mullet over a foot long").

The Power of Words

From a Hawaiian viewpoint, the factor that gives the Hawaiian language its most important cultural function is the philosophy of power in the Hawaiian word itself. This philosophy is codified in the saying i ka 'ōlelo ke ola; i ka 'ōlelo ka make, or (approximately) "language contains the power of life and death." In a Western context this concept might be understandable using as an example the psychiatrist's method of encouraging patients to articulate a problem in order to confirm its existence.

The basis of the Hawaiian concept is the belief that saying the word gives power to cause the action. For example, to say "I wish you good health" will actually help a person to recover, while an expressed wish for death could actually cause it. Furthermore, a homonym or simile retains some of the power of the original word to influence events. Thus the word ola (good health, life), its partial homonyms like 'ōlani (to warm in the sun), and a poetic reference to it like kau i ka puaaneane (rest upon the flowering of the faint breath of life, that is, old age) can all be symbolically helpful. The power of the word is increased by the seriousness and preciousness of the form in which it is offered, such as in a chant or formal speech.

The philosophy of the power of the word is developed to such an extent in traditional Hawaiian culture that there exists a contest of wits called ho'opāpā in which poetic references, partial homonyms, and vocabulary knowledge are used in chant form between two contestants to increase their individual powers and decrease the powers of the opponent. The loser of such a contest can theoretically submit his life to the winner. Although ho'opāpā is an extreme application of the Hawaiian philosophy of the power of words, the concept permeates Hawaiian culture. 7/ The choice of negative words in songs and names is widely commented upon and talented speakers of Hawaiian can take a single word, name, or phrase and develop a speech around it by complicated play with connotations. Word power is even prominent in a custom of randomly choosing verses from the Bible and interpreting these through the form of the words therein.

This Hawaiian use of the examination of words to strengthen a thought is often misinterpreted by Westerners who think that the description of the word itself is the point rather than how the word is used to make a point, give a feeling, etc. An example of this is the word 'ohana, meaning "family." Since the word 'ohana has the sound hana (work) in it, the speaker in traditional Hawaiian usage believes that the family should work together, and uses the connection of both words to emphasize a point that 'ohana should hana together. Each spoken affirmation of familial relationship then also affirms the willingness to work together. A Western thinker listening might seize upon the connection between 'ohana and hana made by the speaker and prominently proclaim that one word derives from the other. Such a Western thinker would then tend to disapprove of other interpretations of the word 'ohana or even call ignorant a person who used the similarity in sound between 'ohana and aloha (love) to emphasize love in a family. The traditional Hawaiian who connected 'ohana and hana in the first place, however, would likely accept the connection between aloha and 'ohana as well as hana and 'ohana because he is thinking in terms of the power of the word 'ohana, and such positive associations provide greater power. This is not to say that Westerners cannot understand the concept of word power, or Hawaiians the concept of historical derivation of words, but confusion over which concept is used has resulted in calling Hawaiians inconsistent and calling folk etymologists and Westerners dumb. 8/

An excerpt from an interview of a Hawaiian speaker on the radio 9/ goes as follows:

Interviewer: (L. Kimura)
No hea 'oe?

(Where are you from?)

Interviewee: (K. Kaleiheana)
No Hanalei o Kaua'i au. Ma laila i
kanu 'ia au ko'u 'iewe, akā 'o
Kalihi ko'u 'āina i hānai 'ia ai.

(I belong to Hanalei of Kaua'i. 10/
It is there that my placenta was
buried, but Kalihi is the land
where I was raised.)

The interview shows both the Hawaiian attention to detail in immediately identifying two locations, even though the speaker was taken to the second location soon after birth. The reference to the first location in Hanalei shows the typical Hawaiian pride in an ancestral homeland and emphasizes this with reference to traditional Hawaiian practice involving the placenta of a newborn child. This causes a Hawaiian-speaking listener to recall poetic usages relating to the placenta and navel cord of babies as connecting ascending and descending generations in a family homeland. The reference to the area in which she was raised, Kalihi, expresses a neighborhood pride common to all people.

Such an exchange would, of course, sound silly in English and the associated poetic connections to the placenta would be lost. Hawaiians do not speak this way in English because it cannot be done properly in that medium, an example of losing the power of words if translated.

A slightly more poetic example involves the funeral of Princess Ka'iulani reported in a Hawaiian newspaper under the headline Eo iā Hawai'i Moku o Keawe ("Hawai'i Isle of Keawe Supersedes All"). 11/ The island of Hawai'i is so commended because of the floral tribute brought by Henry West, a member of the Hilo branch of the Hui Aloha 'Āina. Mr. West and his fellow members gathered from their forests:

> ...na kīhene pua lehua, nā 'ōowili lei hala o 'Ūpēloa, a me ka maile kūpaoa o Pana'ewa.
>
> ...woven leaf bundles of lehua blossoms, coils of hala wreaths from 'Ūpēloa, and the strongly fragrant maile of Pana'ewa.

These Mr. West presented at the casket of the princess in Honolulu with a chant announcing that he had been sent on board the Kīna'u (interisland ship) to represent the people in his home district. The poetry of his chant is not recorded, but the poetry of the flowers remains for us to see how he used the concept of word power. The Hawaiian word hala (pandanus) also means to pass, a Hawaiian reference to death or closure, and the presentation of this lei is consistent with the Hawaiian custom of urging a corpse to depart and join other departed family members. 12/ The fact that the hala came from a place called 'Upēloa is significant, not because it is the location of a famous grove of hala trees, but because the name contains the sound 'ūpē (tears of grief welling up even into the nasal passages), which expresses the deep emotion of the people of Hilo regarding the beloved princess' death. The connection with Hilo is specifically detailed by the maile vine from the Pana'ewa forest outside Hilo, which is reknowned throughout the islands for its particularly strong, sweet scent. The fragrance of the maile is especially apropos because the presence of spirits and departed souls is often associated with fragrances.

Literally, lehua blossoms are emblematic of the island of Hawai'i, where Hilo is located, expressing pride and concern of the island. Figuratively, lehua refers to youth, beauty, and warrior. Ka'iulani was only in her late twenties when she died, an international beauty who used her European education to further restoration of Queen Lili'uokalani's throne through connections in London, New York, and Washington. In the eyes of the people of Hilo she was like a fallen lehua, beautiful, young or warrior, who had ventured out amongst the enemy on behalf of her people.

The selection also uses a place name in Hawaiian poetic thinking. Hawaiian place names are probably one of the first truly Hawaiian things that strikes a visitor to Hawai'i. The abundance of Hawaiian place names is only a hint of their actual number, for there are literally many places where individual boulders are named. Place names are used as displays of wit to express a great deal in a few words, and they are extremely common in Hawaiian poetry and traditional sayings. Perhaps the reason that place names have such evocative power in the Hawaiian language is the emphasis on homeland or aloha 'āina (love of land, patriotism, pride of place) in the culture. There are several words used to describe a person descended from generations of a family living in an individual location (kupa, kama'āina, papa, 'ōiwi) while English has only "native," which, rather than expressing pride, can carry negative connotations. To traditional Hawaiians, place names are considered kupa (natives) themselves. Place names are like esteemed grandparents linking people to their home, personal past, and their history.

Hawaiian personal names share many features with place names in Hawaiian culture and language since personal names require a specific and distinct marking from ordinary words in sentences. Personal names often incorporate ancestral place names and contain references to family history. Without a knowledge of Hawaiian language, remaining within the traditional concept of word power, poetic Hawaiian names cannot be understood or properly pronounced, thus diminishing the power of the names and the person. Compared to Hawaiian culture, American culture puts small emphasis on names. In fact, many Americans treat their own names with little respect, abbreviating them until they seem to lack dignity (for example, Deborah-Debby-Deb, Randolph-Randy-Ran). In a Western sense, reaction to Hawaiian names has been to develop a folk myth that Hawaiian names are poetic, while the beauty of "large-storage-gourd," "the-name-of-the-father's people," "the-casket-of-the-*ali'i*" is not appreciated because of a lack of understanding of the poetic images, history, and traditions specific to the Hawaiian people.

The result of the difference between Western and Hawaiian treatment of names has been generally one-sided, that is, negative toward the Hawaiian. Unless one considers negative, the Hawaiian tendency to call Deborah, Deborah rather than *Deb*, which is the name she is usually called by her family in Oregon. Hawaiian names, on the other hand, are abused in their spoken form by English speakers, even in the face of Hawaiian protest, as has been the case with media usage of "Kal" for *Kalaniana'ole* and "Molahkay" for *Moloka'i*. It has been shown, in fact, that with minimum effort English speakers can pronounce Hawaiian words, since close approximations of all the sounds of Hawaiian are found in English, including the *'okina* or glottal stop. Abusive pronunciation of Hawaiian names is humiliating from any viewpoint, but from a cultural viewpoint, it weakens the name carrier due to the negative influence on the power of the word.

Ironically, some younger Hawaiians deliberately misproncunce or allow mispronunciation of their own personal, family, and place names in order to avoid embarrassing English speakers. From a traditional viewpoint, this attitude is most destructive. Western ignorance of Hawaiian culture is another problem, since English speakers cannot understand the culture without the language and yet inquire into the "meaning" of a name. The best approach in such a situation is simply to say that the name is a special family one, and leave it at that, rather than try to make "large-storage-gourd" sound poetic to non-speakers of Hawaiian who cannot properly appreciate the name without the language.

Place names also fare poorly, since Westerners often want to change the original name of a place to something with a more romantic translation (in the Western view), instead of preserving the history of the place. Attempts are constantly made to change place names, which causes suffering to those families who are rooted in the locations of proposed name changes. Such families believe in the old traditions and to eliminate the name damages the power of the word. For these reasons, Hawaiians protest changes to place names, which far too often are for the convenience of non-speakers of Hawaiian. Hawaiians then bear the risk of being labeled radical, even though without these names the culture as expressed in Henry West's tribute associated with 'Ūpēloa and Pana'ewa cannot live.

Our last simple illustration (from the record *Nā Leo Hawai'i Kahiko* 13/)

comes from a prayer to Laka, the goddess of the hula, a deity still invoked by many practitioners of Hawaiian dance. 14/

'O Laka 'oe,
(You are Laka,)

'O ka wahine noho i ka lipo,
(Woman resting in the dark color,
[as in the deep sea or forest])

I ka uluwehi palai nei lā ē.
(In the lushness of the palai fern
here.)

E ho'i. Ho'oulu 'ia.
(Return. Let there be growth/
inspiration.)

The first thing to note is that the prayer has words. From a traditional Hawaiian viewpoint, the Western concept of silent prayer denies the god-given human privilege of using words. The prayer is also chanted, which makes the words purposefully more subtle, thus very personal, a feature enhanced by the inclusion of extra sounds such as lā and ē. The language in this short excerpt is not much different from ordinary speech, except for the use of a passive in the last line, a feature that does not appear in the English translation, but which makes the language more formal from a Hawaiian perspective.

There is considerable use of word power in these lines, although the only obvious one in the above translation is the term ho'oulu meaning "to cause growth" and also poetically, "to inspire." Word power is also evident in the word uluwehi (lushness), which contains the sound ulu connected to ho'oulu. There is also the word noho (rest upon, sit), which is used in Hawaiian culture to refer to the inspiration of gods accomplished traditionally by their coming to noho upon one's shoulders around the head where one's essential humanity is located. The whole prayer is further complicated by the actual wearing of lei (or wehi, "ornament," as in uluwehi) palai fern upon the shoulders (the place of inspiration), on the head (the place of basic humanity), on the feet (the source of the movement of the dance), and on the hands (which will interact with the words of the dance, although not always in a direct and blatant one-to-one relationship). The palai is traditionally thought of as a form that Laka can assume and it grows in the dark lushness of the forest (that is, lipo). The lei actually brings the goddess into physical union with the dancer, not as a form of worship but as a joint effort of the dancer and a spirit member of the Hawaiian people (Laka), to honor those for whom the dance is being presented. All this symbolism in Hawaiian thinking should help and strengthen the dancer, and will be greatest in a subtle chant, enabling the dancer to keep everything just under the surface for the dancer as well as the audience.

The three examples given above are very simple ones because Hawaiian chants are very long and can contain hundreds of lines. There are also sagas with chanted dialogues, short stories, and books written in a European genre (much like Americans attempting Japanese haiku poetry in English), and of course many songs. Hawaiian love songs are especially interesting as there is strong emphasis on subtle description and personal response referring to places visited, occurrence of minor or major events, humorous occasions, ad infinitum. The song can be so personalized that only the composer and honored recipient can fully understand the camouflaged meaning (kaona) of the song, although there is also a surface meaning that is poetic and enjoyable in itself.

The basic premise that a strong Hawaiian culture cannot continue without a strong Hawaiian language should be easily understood without analysis of complicated literature such as the Hawaiian chant of creation (the Kumulipo). It could be overwhelming to dwell on various nuances of Hawaiian literature, which might underestimate the human potential to learn the use of the Hawaiian language in its traditional context.

Hawaiian children should find it simple to learn the intricacies of Hawaiian poetic thought and expression, due to the essential continuation of a basic Hawaiian cultural personality among the majority of Hawaiian people who do not control the language. Furthermore, Hawaiians have traditionally believed that deceased friends and ancestors could assist poetic composition through dreams or visions.

Culture can be seen at two levels, base culture and aesthetic culture. The base culture includes the daily lifestyle, values, and personality of a people. The aesthetic culture includes ceremonies, philosophy, and literature, building upon the base culture foundation and legitimizing it to the people. Language generally unites the two. The features of Hawaiian aesthetic culture derive, then, from the same features that unite most of today's young English-speaking Hawaiians with older and previous generations. For example, in the area of language use, the attention to specific detail found in Hawaiian poetry and quotations from sayings is also evident in the normal conversation of Hawaiians. Local people often report a conversation by quoting exactly what someone said, when haole (foreign) people would give an approximation. (The conflict between these two strategies is often irritating; to the Hawaiian because of lack of detail and accuracy, and to the haole because of anxiousness to get to the central point.) On the other hand, also as in Hawaiian poetry, local people value getting their own thoughts across with the least number of words, thus making an understanding of their personality a matter of subtlety and personal sensitivity on the part of the listener. Haole people, on the other hand, tend to say as much as they can with the hopes that their true personality or interests will be immediately perceived by the listener, in order to avoid any mistakes. The fact that most modern Hawaiians retain a strong Hawaiian base culture makes involvement in the traditional aesthetic culture a natural for them, once the full mechanics of the language are mastered.

The beneficial role of the aesthetic culture in supporting the base culture is also important to emphasize in the context of language. The aesthetic culture contains stories, sayings, and traditional customs--all of which reinforce values inherent in the base culture. Thus, base culture and aesthetic culture work together toward a cultural ideal. When a language that holds the key to the aesthetic culture of a people is replaced with a language foreign to their base culture, the result is damaging conflict between the traditional base culture and the new aesthetic culture. The base culture becomes redefined as an aberrant subculture within the culture of the replacement language, and the original people are faced with a choice of abandoning the base culture that represents their family and friends, or rejection of the ideals of the new aesthetic culture, which sets the means for acceptance and success in their daily society. Unfortunately, this is what has happened in Hawai'i where the base culture associated with the Hawaiian language and practiced by most local students is interpreted in terms of an American-English aesthetic culture. The most common course in Hawai'i in recent years has been to reject the English-associated aesthetic culture that allows for the continuation of group loyalty. However, without the influence of Hawaiian aesthetic culture on their lives, even the ideals of the base culture weaken, and there is rejection of intellectual development, resulting in increased crime, and so forth, deplored by both Hawaiian and American culture.

Language not only plays an important part in the aesthetic culture that protects the lifestyle of a people by giving it status, it also ensures orderly change in culture as it adapts through time to new concepts and technologies. Since language documents within itself past changes and adaptations of a people, it legitimizes the concept of change, and shows that it can be accomplished within a traditional framework. Damaging rapid and radical change, however, is resisted by language since it carries with it old attitudes and concepts that will always continue to exert an influence on its speakers.

An example of how language maintenance has protected one well-known culture and adapted it successfully to the modern technological and highly-politicized world is the case of Japan. In Japan, the exclusive use of the indigenous language protected traditional customs and a base cultural feature emphasizing group consciousness, which has served the Japanese well both in the period previous to Western contact and in today's modern world. Features of Hawaiian base culture such as attention to detail, conciseness, and group consciousness could serve the Hawaiian people well in today's technological world if they could be strengthened and given status by Hawaiian aesthetic culture.

In discussing the role of the Hawaiian language in Hawaiian culture, it is also well to remember that American English is a vehicle of its own culture and that English words carry their own connotations and history. Whenever Hawaiian is translated into English, the English words used add cultural connotations to the idea conveyed, while eliminating intended connotations and meanings of the original Hawaiian. An example of this are the words ali'i and maka'āinana. The usual translations of these words in English are "king" and "commoner," respectively. In American fairy tales, an English king carries connotations of the European feudal system, the American historical rebellion against King George (American law still forbids titles), royal decadence, and a fascination with royalty, as shown by all the attention given the marriage of Prince Charles in the American popular press. In American English, the term commoner suggests the word "common," which is very negative in the language (for example, "How common!" or "a common drunk"), connotes the existence of strong socio-economic stratification and distance, and even some of the economic and racial separation that exists in America itself.

The Hawaiian terms ali'i and maka'āinana have completely different connotations and even meanings. From the traditional Hawaiian viewpoint the ali'i and maka'āinana are the same people and one family. Both the early traditional historians Malo and Kamakau state that the ali'i and maka'āinana are one people descended from Papa and Wākea and that the ali'i came from within the maka'āinana. The foremost traditional Hawaiian scholar of the twentieth century, Pūku'i, 15/ records a Hawaiian proverb that explains how the position of ali'i was created from within the maka'āinana:

> Kūneki nā kū'auhau li'ili'i,
> noho mai i lalo; ho'okahi nō, 'o
> ko ke ali'i ke pi'i i ka 'i'o.
>
> (Let the lesser genealogies sit
> below; that of the ali'i alone
> should be raised up towards
> significance.)

What this means is that the people put forth the flower of their families as their representative and de-emphasized the rest of the family to give added prominence to that representative. (Of course once their representative is recognized and admired, the status of everyone else is assured as well by genealogical connection.) The ali'i were the flower of the maka'āinana, within the ideals of both the base and aesthetic culture. The family relationship remains intact, although individuals maintain distances.

In Hawaiian base culture much emphasis is put on first-born children. In today's Hawaiian families the oldest child often has control over the younger children, and respect and even some authority is carried by the first-born child even into adulthood with respect to his or her younger siblings. The Hawaiian language itself always distinguishes older from younger sibling in its kinship terms. The importance of birth order even carries into the extended family, with the term used for a cousin depending on the relative age of the connecting parent. In their base culture, then, Hawaiians put much emphasis on birth order and the prestige of being first-born. The aesthetic culture supports this with special ceremonies for first-born children and traditions of giving them special name songs, or similar special recognition.

Genealogies are made more prominent by including first-born children, and the person chosen to represent the people as ali'i is usually from the genealogy with the most first-born children and lineages in it. In a more traditional Hawaiian interpretation, then, ali'i and maka'āinana are kin terms with the āli'i representing the equivalent of kaikua'ana, "older sibling of the same sex or cousin related to one through an older sibling of one's parent." The grammar of the language itself strengthens the identification of ali'i and maka'āinana as kin terms, since they use the O-class possessive markers characteristic of the possession of kin. That is, the ali'i says ko'u maka'āinana, "my maka'āinana" (note the o of ko'u), and the maka'āinana says ko'u ali'i, "my ali'i." The use of the O-class possessive markers here contrasts with the use of A-class possessive markers used with ordinary material goods possessed by a person, and even hired hands, and spouses, who are treated as A-class and less intimately bound with one than O-class possessed items. 16/

Even the rigid "taboos" (kapu) as described in English books on Hawaiian culture are not as the English language makes them appear. The kapu are actually associated with a lineage through an historical or legendary event, the emphasizing of which through ceremonial observation stresses the status of the lineage (ali'i and maka'āinana as one). When the people (and even nature, as happens in the traditional context) recognize these kapu by lighting torches at day, sitting before an ali'i, allowing the ali'i to move only at night, or observing rainbows arching at the approach of their ali'i, the people gained status along with that of their ali'i. The more extravagant the kapu, the greater the status for the whole group.

This is quite different from European culture, which sometimes described commoners and serfs as forced to grovel before royalty. In fact, when an ali'i misused his or her powers and kapu responsibilities, he or she was removed by the group and replaced with another, a practice for which there is ample evidence and moral support in Hawaiian traditions. For all the ferocity reported on Hawaiian kapu in English books, little or no mention is made of the fact that the greatest defense against the kapu was the physical person of the ali'i. The ali'i was a pu'uhonua or "place of refuge and sanctuary" for those who inadvertently failed to maintain the kapu of the lineage. This concept is preserved in ordinary Hawaiian language in the word 'ōpūali'i, meaning to have the heart of an ali'i or the ability to forgive some mistake.

Thus, the study of Hawaiian culture through the English language can be very damaging and just the two words, ali'i and maka'āinana, as interpreted through English-language Hawaiian culture textbooks, have caused problems for English-speaking Hawaiians. As mentioned earlier, the ali'i and maka'āinana are a single lineage with those descending from first-born children having higher status. Almost every Hawaiian has some connection to some first-born lineage in his background and thus every Hawaiian seems to have some ali'i "blood." There are two reactions to this within the context of the English connotations of the English term "king:" overbearing haughtiness, or shame in association with a repressive group, both in direct conflict with the traditional Hawaiian view that the people are all one.

We see then that the replacement of Hawaiian with English can have (and has had) a tremendous negative impact on Hawaiian culture and thus the Hawaiian people:

- First, any aesthetic culture divorced from its language cannot exist, and this is especially true for Hawaiian culture in which such great importance is placed upon the intricate and subtle use of language.

- Second, although the base culture or the basic personality of the Hawaiian people can survive within the context of the replacement English language, that Hawaiian base culture becomes redefined as a subculture and historic development will move toward a definition of negatives that contrast with ideals of both the indigenous aesthetic culture and the imposed aesthetic culture.

- Third, descriptions of the indigenous Hawaiian aesthetic culture and base culture through the medium of the imposed English language cannot absolutely transmit a full picture of Hawaiian culture. English inevitably implies Anglo-American culture in direct proportion to that part of Hawaiian culture that is lost in the description. This has a negative impact on Hawaiians, not only in the impressions gained by outsiders, but also in the self-impression gained by English-speaking Hawaiians using such descriptions.

History of the Hawaiian Language

Origin of the Language

What is technically, in English terminology, the prehistory of Hawaiian (that is, the period before the documentation of the language in writing) was touched on briefly in the first section. Linguists agree that Hawaiian is closely related to Eastern Polynesia, with a particularly strong link in the Southern Marquesas, and a secondary link in Tahiti, which may be explained by voyaging between the Hawaiian and Society Islands. The weakest linguistic link exists between Hawaiian and Western Polynesian languages, such as Samoan. Tongan and Niuēan are considered the least closely related Polynesian relatives of the Hawaiian language.

Hawaiian tradition itself claims a local origin for man and thus his language, agreeing with linguists however, in ascribing some cultural influences to a period of voyaging. 17/ Anthropologists also support a theory of voyaging between Hawai'i and Central Eastern Polynesia, with some believing that voyaging started in Hawai'i and moved south (as does Thor Hyerdahl) and others that voyaging originated in Central/Eastern Polynesia (as does Dr. Kenneth Emory of the Bishop Museum and the majority of anthropologists now working in the Pacific). Some local religious denominations, such as the Church of Jesus Christ of the Latter Day Saints, ascribe to one theory or the other (in their case, Hawai'i is considered the original source); others, such as the Buddhists, have no teaching regarding the origin of voyaging between Hawai'i and the rest of Polynesia.

Phonology, Grammar, and Syntax

Despite disagreements on how Hawaiian is related to other Polynesian languages, it is clear that the language has continued to expand and develop its own uniqueness. Hawaiian is typically Polynesian in an emphasis of vowel over consonant. The most noticeable phonological difference between Hawaiian and other Polynesian languages involves consonant correspondence, including the merger of some consonants, somewhat in the way that English differs from Romance languages in certain consonant correspondences (for example, Latin "pater" and English "father," Latin "ped-" and English "foot," Latin "mater" and English "mother"). (See Table 62).

Consonants are de-emphasized in Hawaiian, accentuating instead vowel distinctions and combinations. This vocalic nature gives Hawaiian a melodic character. Hawaiian speakers frequently refer to English in slang as namu, "grumbling," because of its comparatively harsh sound, and also as hiohio, "windlike or flatulence-like whistling," again because of its heavy use of consonants compared to Hawaiian.

In the area of grammar, most Polynesian languages have one or two definite articles. Hawaiian, however, has five: ka (regular singular definite article), ke (irregular singular definite article), kahi (diminutive singular definite article), nā (regular plural definite article), and nāhi (diminutive plural definite article). Hawaiian conversely uses a single verbal negative, 'a'ole (with pronunciation variants 'a'ale and 'ale, like the single English verbal negative not with the pronunciation variant -n't), where Tahitian and New Zealand Māori utilize different negatives with different tenses.

In syntax, Hawaiian provides complex grammatical methods for emphasizing different points in a sentence, which in English are normally indicated by raising the voice level. Hawaiian has also reduced the complexities of Polynesian morphology not found in European languages (for example, the loss of reciprocal verb forms and indefinite possessive pronouns, such as, respectively, Tongan--*fekāinga'aki*, "be related to each other," and *haku*--"one of my"). Depending on whether one emphasizes consonants and morphology (as many earlier schools of American language scholars did) or vowels and syntax (as is becoming more popular in modern linguistics) Hawaiian at initial Western contact was either a simple or complex language. Like all Polynesian languages, however, Hawaiian has an elegant and pragmatically-balanced grammatical structure that eliminates many of the ambiguities of English. The pronominal, verbal, possessive, and demonstrative systems are particularly well-developed compared to English (as shown in Table 63). Dr. Samuel E. Elbert, one of the pioneers of Hawaiian and Polynesian linguistics, has even proposed that the pronunciation and structure of Hawaiian makes it a good candidate for a language of international communication like Esperanto.

Vocabulary and Written Form

The vocabulary of Hawaiian relating to traditional Hawaiian culture and the natural history of Hawai'i is extensive (over 25,000 words have been recorded in the Pūku'i-Elbert dictionary). Contact with the rest of the world in 1778 created a need for an expanded vocabulary to describe new artifacts, technologies, diseases, and activities. The process of expanding vocabulary was already well established in the language and it was readily applied upon the arrival of the first Western ships. For example, ships were termed *moku*, a poetic term for a large exposed sea rock or small island; guns became *pū*, a term referring to large trumpet shell horns; and syphilis became known as *kaokao*, probably an analogy with *hākaokao*, a description of rotting taro.

For some forty years Hawaiians rapidly developed vocabulary to describe new things with which they came into contact, by adapting traditional vocabulary and foreign terms to Hawaiian. Early vocabulary expansion was particularly great in matters relating to Western sailing vessels and technology. Hawaiian men were recruited in large numbers as crew members by visiting traders and whalers, with some commanding vessels for foreign owners as well as vessels acquired by the Hawaiian court.

It was not until forty-four years after the first Western contact that an attempt was made by Westerners to participate in the expansion of Hawaiian vocabulary. Calvinist missionaries from New England arrived in Hawai'i in 1820, with the altruistic intention of egotistically imposing their religion and culture on a people considered inferior and deprived, because of a religion and culture incomprehensible to Calvinists. It took approximately two years and the guidance of John Pickering's *Essay on a Uniform Orthography for the Indian Languages of North America* before the missionaries were able to start teaching Hawaiians a method of writing and reading their native language. The experimental orthography that they used was most stable in its use of five vowel symbols (*a*, *e*, *i*, *o*, and *u*) and the exclusion of the English consonantal symbols *c*, *q*, and *x*.

Hawaiian language possessed sounds for which there were no consonant symbols in the English language. The confusing result was frequent interchange of consonant symbols that were as nearly similar to the sound as possible. For example, l, r, and d were all used in the spelling of the word Hilo and three English-speaking listeners might have recorded the sound three different ways. The first sheets printed in the Hawaiian language on January 7, 1822, used this confusing alphabet. However, it was released before confusion over the consonant symbols was resolved.

Reading and writing spread very rapidly in schools instituted by district ali'i with Hawaiian teachers, and in schools at the mission stations taught by missionaries. The early schools enrolled all ages, the majority of whom were adults. Great public examination festivals termed hō'ike further stimulated interest in learning the basic skills of reading and writing as well as some arithmetic and music. These hō'ike were times for villages and districts to show off personal finery and meet together, as well as display the skills acquired in the schools. By the late 1820's, spontaneous enthusiasm for learning had reached its peak when there were some 900 schools in the country, attended by forty to sixty thousand students. Only a tiny fraction of these schools was taught by the missionaries.

In the 1830's, once reading and writing had been mastered, enthusiasm for further schooling lessened somewhat among the adult Hawaiians. Missionaries, reinforced by several newly-arrived groups of fellow workers, concentrated their efforts on improved facilities, teacher training, and increased production of materials. The goals of the mission are well illustrated by the following excerpt from the instructions given by the American Board to the fifth party of missionaries in 1832:

> Your mission...embraces a wide range of objects. Depending on divine grace, it aims at nothing less than making every Sandwich islander intelligent, holy, and happy. Its appropriate work will not, therefore, be fully accomplished, until every town and village is blessed with a school house and church, and these school houses are all well furnished with competent native masters, and all these churches with well instructed native preachers--until every inhabitant is taught to read, and is furnished with a Bible in the native tongue--until academies, with native preceptors, are established on all the principal islands; and the High School now existing on the island of Maui, has become a College with native professors--until the printing presses are owned and conducted by native publishers, and find employment for native authors, and, so employed pour forth treasures of theology, history, and every useful science, for supplying the native demand for public and private libraries; nor until christianity is fully established as the religion of the island, and its benign influence has become paramount in every rank and class of the people.

For a time it appeared that these goals would be met. The high school referred to above is Lahainaluna boarding school, established on September 5, 1831, to train young Hawaiian men to become teachers and ministers. 18/ Students were soon studying such subjects as geography, geometry, anatomy, music, trigonometry, Greek, English, Hawaiian language, and composition, all through the medium of Hawaiian language.

Lahainaluna was the cornerstone of the government department of education that developed in 1840 to coordinate schools of the kingdom. Lahainaluna supplied texts and periodicals through its press and trained native Hawaiian-speaking teachers. The school was also the primary source of many of the Hawaiian ministers, lawyers, politicians, and judges of the monarchy and later the Territory of Hawaii. Individuals educated in the better Hawaiian medium schools received broad exposure to Western knowledge, but within a generally Hawaiian context since almost all the teachers in the system were Hawaiians themselves. Hawaiian cultural topics appear to have been actively used as topics for compositions, and many Lahainaluna graduates became well-known writers on Hawaiian topics for the Hawaiian publications.

The great enthusiasm of the nineteenth and twentieth century Hawaiians for written literature in their own language has left today's Hawaiian people with a tremendous gift, although one that they cannot fully appreciate without an ability to read their ancestral language. In the some five hundred years between the Christianization of the English and their conquest by the Norman French, the Anglo-Saxons preserved very little literature relating to their pre-contact past. The most famous of these, the epic poem Beowulf, is somewhat comparable to Hawai'i's Kumulipo preserved by Hawaiian writers, although one can find some Christian influence in Beowulf. While much of Old English poetry concerns Christian topics, Hawaiian writers generally chose traditional topics, shown not only in their great interest in recording old chants but also in their own compositions. Historians of English are proud of the development of an early English prose tradition that consisted primarily of translations from well-known texts in Latin. Baugh states:

> In the development of literature, prose generally comes late. Verse is more effective for oral delivery and more easily retained in the memory. It is therefore a rather remarkable fact, and one well worthy of note, that English possessed a considerable body of prose literature in the ninth century (Note: This is three hundred years after initial introduction of writing), at a time when most other modern languages in Europe had scarcely developed a literature in verse. 19/

It is surprising for students of the Hawaiian language to discover that English had no tradition of prose until the introduction of Christianity. Early Hawaiian writers recorded many long Hawaiian prose stories, some of the more famous are sagas of Pele and Hi'iaka, Kawelo, Kamapua'a, and Lā'ieikawai. Not satisfied with a single version, early Hawaiian writers sometimes wrote down regional or period variants of Hawaiian sagas. Like the newly literate Anglo-Saxons, the Hawaiians translated works from other languages into their own tongue, but there are also a number of original compositions, including several histories of the people and descriptions of foreign travel. Through their writings, these people preserved and created a body of written Hawaiian literature within approximately a one hundred-year span that is comparable to the body of written Old English literature covering a period of about four times as long, with a much larger population.

The introduction of writing, and contact with a third culture, led to a strengthening of Hawai'i's culture through Hawaiian documentation of practices disapproved by the American Calvinists. 20/ The Hawaiian newspapers (some of which had come into existence before 1900) were the primary means through which traditional and Western culture were communicated to the adult population. Hawaiian traditions were serialized in the newspapers along with translations of famous European works, such as those of Shakespeare. The newspapers were avidly read by a population that was one of the most, if not *the* most literate of its time. Literacy in the United States was in fact considerably deficient in comparison to the Hawaiians of the nineteenth century.

Most of the Hawaiian population actually learned to read and write largely through their own efforts prior to the missionary translation of the Bible in 1839, and even before the missionaries had standardized the alphabet they would use in their mission. This standardization occurred in the mid-1820's when missionaries voted to end the confusion between consonant pairs such as *k* and *t*, *w* and *v*, and *b* and *p*. This vote resulted in a decision to represent all native Hawaiian words with the symbols *a*, *e*, *i*, *o*, *u*, *h*, *k*, *l*, *m*, *n*, *p*, *w*, and to use other symbols only in spelling words of non-native origin. This alphabet was subsequently used in all Protestant mission and government publications, and although challenged for a period by a Catholic practice of occasionally using *t*, *v*, and *r* to represent *k*, *w*, and *l*, respectively, the same set of symbols has survived until today. In making their final decision on their alphabet, the American missionaries closely copied the decisions made by English missionaries in the South Pacific, and like the English failed to establish standards for the marking of phonemic vowel length and glottal stop. Correcting this defect was the first task of modern students of the Hawaiian language.

The glottal stop, or *'okina*, is a phonemic consonant of Hawaiian and the length of vowels is also a phonemic feature distinguishing words. 21/ Neither of these are especially unusual features in world languages. English historically had a long/short contrast in its vowels and contemporary American English has a glottal stop. (For example, the word *button* pronounced [illegible] differs from the word *bun* in pronunciation only by the presence of a glottal stop in most American dialects.) The early American missionaries were only vaguely aware that words written identically were somehow pronounced differently, and they sometimes referred to the effect of the phonemic glottal stop and vowel length as "accent" or "euphony." By 1864, the missionary grammarian Alexander had noted the importance of both the *'okina* and vowel length, but he had difficulty in transcribing them and therefore made no attempt to use the symbols for them consistently in his writing.

Native Hawaiian speakers devised a method to indicate the presence of a long vowel, or *'okina*, to eliminate the possibility of word ambiguity. A dash between consonants indicated a pronunciation including long vowels (for example, ku-mu would spell kūmū, a type of fish, in contrast to kumu, "teacher"). A dash between vowels indicated a pronunciation including long vowels, an 'okina, or both (for example, pa-u would spell pā'ū, "riding skirt," in contrast to pau, "finished"). An apostrophe between vowels indicated an 'okina (for example, ka'i would spell ka'i, "move in a procession," in contrast to kai, "sea"). 22/ These practices became more frequent in publications by Hawaiians as time went on, and the inaccuracy of the original spelling system lost some of its force. It was not until 1957, however, with the publication of the Pūku'i-Elbert dictionary, that a systematic and accurate recording of long vowels and 'okina in the lexicon of Hawaiian occurred. The Pūku'i-Elbert dictionary, now the standard reference for the Hawaiian language, marks the 'okina with a single open quote (also described as an inverted comma) and long vowels with a macron, following standard practice adopted previously in other parts of Polynesia. Table 64 illustrates some words always distinguished in Hawaiian pronunciation, but only consistently distinguished in Hawaiian writing since 1957.

The inclusion of the 'okina and kahakō (macron) into the Hawaiian writing system improved the missionaries' original alphabet. Unfortunately, it arrived too late to impact a good number of old Hawaiian names and archaic terms. Hawaiians today can only guess at the correct pronunciation of these, due to the loss of authoritative knowledge prior to recordation in the improved spelling system. Hawaiians are also losing the pronunciation of words and even family names, since those who are knowledgeable about them are not taught to record them in the modern spelling system.

Although the addition of the 'okina and the kahakō have greatly improved the missionary orthography, much work remains to be done in the area of Hawaiian spelling. The missionaries established a basic alphabet, while questions of word divisions, capitalization, punctuation, and related matters were never adequately addressed. Standardization is still needed in these areas as the assignment of the 'okina and kahakō has varied even within editions of the Pūku'i-Elbert dictionary. The use of 'okina and kahakō is becoming standard in published material today, although many older speakers are still more familiar with the unmarked missionary alphabet. Within the English language publications, the use of the 'okina and kahakō is a sign of accuracy and positive respect towards Hawaiian culture. Unfortunately, many English speakers have a very poor attitude toward the importance of spelling Hawaiian words with anything resembling the care they give to the spelling of English, and this attitude has even rubbed off on many younger English-speaking Hawaiians. 23/

As the Hawaiian writing system expanded from the time of the first missionary contact, so too Hawaiian vocabulary has continued to expand. The Hawaiian medium schools served as a stimulus for the development of terminology useful in discussing topics such as biology and mathematics, while the civic life of Hawaiians resulted in a large body of vocabulary related to law and politics. The expanded vocabulary of Hawaiian included terms developed by Hawaiian newspapermen in reporting World War I and World War II, linguistic terminology developed in modern monolingual language classes at the University of Hawai'i at Hilo, and expanded terms for modern gadgetry developed by the Ni'ihau community.

Hawaiian language is handicapped today for lack of a strong Hawaiian-language media and an official language planning office (as exists in many other parts of the Pacific Basin) that can disseminate new vocabulary developments. The secular Hawaiian newspapers went out of business after World War II and neither the potential of radio nor of television has ever been fully applied toward benefiting the Hawaiian-speaking community. Without the dissemination of vocabulary, those speakers of Hawaiian still active today are linguistically deprived. The reason for this situation is the development of English dominance at the expense of Hawaiian.

The English dominance of Hawaiian parallels Norman French subjection of English between 1066 and 1200. Whether Hawaiian can be revived, as was English, after the current trial period is a matter of conjecture. At present, the language has a single native-speaking community of some 150 individuals located on the island of Ni'ihau. There are less than 2,000 native speakers, all above the age of 60, scattered throughout the other six inhabited islands, who must function within an English-speaking environment. Another one thousand or so English speakers are actively trying to learn Hawaiian. There are also many in the community who can understand some Hawaiian, but cannot speak it, and the majority of Hawaiians who speak a form of English heavily influenced by Hawaiian. The life and death of the Hawaiian language rests primarily with these people, but the success of their efforts to assure the life of their language depends in large part on the cessation of hostile and senseless measures emanating from the dominant English-speaking groups. Perhaps if the English speakers were more aware of how their own language almost suffered death at the hands of the Normans, who considered English primitive and inferior, their attitudes and actions presently so detrimental to the survival of Hawaiian would change.

The Rise of English

Much of the early communication in Hawai'i between Hawaiians and foreigners from various linguistic groups was through a form of broken or simplified Hawaiian. This broken Hawaiian was carried by Hawaiian sailors aboard Western vessels and traces of it are found in Eskimo trading language and a Kamchatka trading language of the Asian Soviet Union. Simplified Hawaiian survived as a means of communicating with foreigners and gradually developed into what is called pidgin English, in the early twentieth century.

The existence of a form of broken Hawaiian is testimony of the cultural and linguistic strength of the language at the early period of contact with other cultures. From earliest contact, however, there were also Hawaiians who learned foreign languages by working around foreigners, especially aboard their vessels, and through extended stays in foreign ports. Hawaiians were reputed to be quick language learners and were hired to serve as interpreters in the Northwest coast of the North American continent. Bilingual Hawaiians were important to all the Hawaiian people as a direct means of understanding other cultures and introducing new ideas at home. One strength of the early Hawaiian government lay in the fact that there were a number of Hawaiians and assimilated Europeans who understood foreign languages and thinking well enough to assist the country in avoiding early loss of sovereignty.

From first contact with the West, the English language in both its British and American forms was the principle foreign tongue in Hawai'i, although French, Spanish, and Russian were also present. The arrival of the American missionaries in 1820 brought a new future for the English language in Hawai'i beyond the simple use of conducting trade. The missionaries established a community of some permanence. They eventually disregarded, however, their own goals of teaching the community in the native tongue.

Although the missionaries espoused a new order among the early foreign residents, they could not envision themselves and their children as truly part of the community. Missionary children were not allowed to learn the Hawaiian language, missionaries maintained their own church congregations and schools, and even punished members for marrying into Hawaiian families. Thus the American missionaries and their families created the nucleus of the first permanent non-Hawaiian-speaking community in Hawai'i.

This English-speaking community at first derived it subsistence from religious and academic instruction of Hawaiians. These occupations, however, were supplanted by Hawaiians who were better able to communicate with fellow natives. Consequently, the American Board of Commissioners for Foreign Missions (ABCFM, which financed the Hawaiian mission) officially declared the Christianization of Hawai'i a success. This ended their support and contributions to the livelihood of the missionaries, their children, and their associates. Some missionaries returned to New England, others journeyed to other parts of the Pacific to continue their calling, but many stayed in Hawai'i. Because the missionaries had remained aloof from the general English-speaking community, they became trapped by the remnants of their own arrogance when the ABCFM withdrew support. In order to continue in their accustomed lifestyle and survive as a separate group, they began to wrest control of the land from the Hawaiians. The missionaries started to come into conflict with the very principles that had originally inspired the ABCFM ministry.

Hawaiian culture stresses sympathy for individuals in need and the Hawaiian people had developed considerable *aloha* for the early altruistic efforts of the missionaries. The people expected ruling *ali'i* to care for the missionaries and their families according to Hawaiian culture, and the *ali'i* did so generously. Some missionaries were granted the use of large tracts of land and others were incorporated into government service (that is, the court) to utilize their expertise in dealing with foreigners and new concepts entering Hawai'i.

Incorporation of English-speaking members of the community into government service represented a departure from the earlier practice. As a result, in conflicting matters, the small groups of English speakers in government favored their own interests over that of the Hawaiian community.

They supported dismantling the Hawaiian common property ownership tradition, the repeal of the voting rights of Hawaiian women, and other similar programs that benefited their own linguistic community at the expense of the entire nation. The necessity existed because without such change, the English-speaking community could not expand in Hawai'i, and the general American philosophy represented by these people did not support the thought of traditional Hawaiian political, economic, or linguistic systems. Those who had been incorporated into government service believed that the country owed them something, rather than the other way around. They made little attempt to use Hawaiian in carrying out their duties, and instead complained about the lack of English- speaking abilities of Hawaiians who served with them in government. Again, there was direct conflict with the originally expressed goals of the mission to retain the indigenous language, while encouraging the indigenous people to develop a Western lifestyle. The insistence that English was more suited to high government service and recordkeeping (which it actually was not) removed much authority from Hawaiian control and opened government for a greater expansion by the tiny English-speaking community.

A situation thus developed in which Hawaiian was the language of the sovereign, low-order government service and the courts, local church systems, the public education system, law enforcement, low-order internal business, blue collar jobs, and the subsistence life of the country districts, while English was the language of high-paying, upper-administration jobs, and big business. The Hawaiian reaction to this development was deep resentment toward the English speakers (who had received their positions in the first place due to the largess of the nation) and a strong movement to learn English in order to better compete with the intrusive group.

Although the missionary-centered community had overstressed the importance of English as a means to maintain their power, the importance of developing English and other foreign language skills in order to secure occupations dealing with the outside world soon became clear to Hawaiians. As early as 1839, even before the missionary community had organized its own English language school at Punahou, young *ali'i* were educated exclusively in English at a school designed for that purpose called the Chiefs' Children's School (new Royal Elementary). It was not until 1851, however, that a government-sponsored school in a medium other than Hawaiian was established. Even this school, the Honolulu Free School, catered primarily to mixed-blood children, many of whom already had exposure to foreign languages through one non-Hawaiian parent. By 1854, regular government schools taught through the medium of English were opened and began to compete with the Hawaiian medium schools for the Department of Education's attention. Several private schools enrolling Hawaiian students, and often employing British teachers, also appeared after mid-century. By the late 1880's, the government had sent academically-talented Hawaiian youth abroad to receive educations in England, Germany, Japan, and Italy.

Leadership within the Department of Education interpreted Hawaiian interest in learning English as indicative of a desire to abandon Hawaiian altogether. This coincided with the opinion of many younger individuals in the manifest destiny of Northern European races, the rising tide of Euro-American dominance, and the inferiority and ultimate doom of Asian and Pacific cultures. Suggestions to abandon Hawaiian language in favor of English came from the English-speaking community, but not all of them agreed with the idea. There were a few left who held to the original missionary ideals, as witnessed by Reverend Lorenzo Lyons' entry in the missionary journal *The Friend*, September, 1878:

> I've studied Hawaiian for 46 years but am by no means perfect...it is an interminable language...it is one of the oldest living languages of the earth, as some conjecture, and may well be classed among the best...the thought to displace it, or to doom it to oblivion by substituting the English language, ought not for a momemt be indulged. Long live the grand old, sonorous, poetical Hawaiian language! 24/

Strong support from the English-speaking leadership of the Department of Education for the English medium schools had a negative financial impact on the Hawaiian medium schools and school teachers. Appropriations given the English medium schools were considerably higher, as were the salaries paid teachers in those schools. Loss of pupils to the better-supplied English medium schools resulted in loss of jobs for many Hawaiian teachers, and increased job opportunities for the English-speaking community.

Hawaiian interest in English was primarily economic. The period of greatest interest occurred during the reign of King Kalākaua (1874 to 1891). There was also at this time, however, a correspondingly high interest in restoring Hawaiian poetry, dance, and traditional culture among all Hawaiians, including Kalākaua. The expanding establishment of English medium schools intensified the study of English and foreign languages and took a serious toll on the Hawaiian language. The prestige of Hawaiian language diminished, as did teaching in Hawaiian, as a result of poor salaries and facilities associated with Hawaiian schools. The English medium schools further removed Hawaiian vocabulary for technical and academic matters relating to the Western aspects of life in Hawai'i, hence employment alternatives. The schools affected the status of Hawaiian as a means for bringing different races together by removing the growing immigrant children population from an atmosphere in which their command of the national language could be improved. Hawaiian language lost an opportunity to act as a racial catalyst when the growing population of immigrant children was denied improvement in the national language. Also destructive was the direct exposure to Euro-American philosophy (in a way, propaganda) of that era, which proposed that non-Western peoples were inferior, further weakening confidence of Hawaiian children in themselves, their native language, and their culture.

To credit the English schools of the monarchy, a good number of Hawaiians became bilingual and very fluent in an English that was characterized by a certain British flavor, due to a preference for the British by upper-class Hawaiians. This competence in a high-value, prestige dialect of English was exactly what the Hawaiians needed to regain control of the positions that had been overtaken by an English-speaking group claiming that they alone could serve the nation in this capacity. Further strengthening the Hawaiian speakers in this area was the group of talented Hawaiian youth who had been sent abroad to Japan, Italy, Germany, and England to be educated. They returned with broadened perspectives and languages to better serve Hawai'i in dealing with foreign nations. 25/

Growing Hawaiian competence in what the English-speaking community had established as their own area of influence and control led to uneasiness and greater militancy and radicalism among the English speakers. It is significant that acts, such as the Bayonet Constitution of 1887 and the overthrow of the monarchy, came at times when the goals of an independent nation based on a Western model, as espoused by the original missionaries, were seriously being pursued by Hawaiians and deliberately being defrayed by the missionary community.

The Hawaiian movement to expand the people's economic and political control through skills in English and other foreign languages never saw fruition because whenever there was a threat of success, violence was used to prevent it. The establishment of English medium schools actually backfired on the Hawaiian people during the Republic when the English speakers legislated their personal biases that English should completely replace Hawaiian, and it became official policy to do away with the Hawaiian language completely. The few Hawaiian medium schools remaining at the time of the overthrow were abolished by law, and English became even more pervasive as its official status formed a means for English speakers to move into occupations, such as lower-civil service, that formerly required skill in Hawaiian rather than English. Long after annexation and well into the territorial period, increased erosion of the Hawaiian language and growth of an English-speaking population led not to an increase in the political, social, and economic position of Hawaiians, but to a decrease in these areas proportionate to the loss of skill in Hawaiian.

The government continued to use the language in all business that dealt with the general population, and Hawaiian was secure in the churches, in its role as the lingua franca of the country even between non-Hawaiian residents of different language backgrounds. In 1888, when 84 percent of the nation's 8,770 school children were instructed through the medium of English, and only 15 percent received their education in Hawaiian, the vast majority of the children had Hawaiian as their dominant tongue. Over 75 percent of these children were of Hawaiian ancestry and certainly native speakers of Hawaiian. Queen Kapi'olani in that year is described by a personal servant as always speaking Hawaiian and requesting a translator when English was used. Another 20 percent of the school enrollment consisted of children of plantation workers of various non-English-speaking groups who were certainly familiar with some Hawaiian. Children of pure English and American ethnic parentage made up less than 5 percent of the entire school enrollment at the time and even in this group it is certain that some of them spoke Hawaiian. There are in fact *haole* plantation families with a history of children growing up speaking Hawaiian before English during the monarchical period. Hawaiian remained the normal vernacular of Hawai'i and the language of the street in Hawai'i until between 1910 and 1920, when it was replaced by pidgin English.

Hawaiian was still the dominant language in terms of numbers of speakers at the time of American annexation in 1898, despite official legislative policy replacing Hawaiian with English. Since Hawaiian was the language understood by the majority of the electorate and citizens of the new territory, it was the language used by politicians, including non-Hawaiians. The language was also used in the legislature, and a provision of the Organic Act (Section

44) requiring debates in the legislature to be in English resulted in the need for interpreters and translators for the Territorial House and Senate (until 1907) just to comply with the law for those legislators not fluent in English. The laws were disseminated to the general electorate through the Hawaiian press, and ballots remained in Hawaiian until the 1960's. At the beginning of the territorial period, English speakers in government not fluent in Hawaiian were often closed out of political discussion.

While the Hawaiian language was still quite strong in public life in the early days of the Territory, the main loss of language came through the school system, which attacked the language at its most vulnerable and important point, the children from Hawaiian-speaking homes. During the Republic and Territory, Hawaiian was strictly forbidden anywhere within school yards or buildings, and physical punishment for using it could be harsh. Teachers who were native speakers of Hawaiian (many were in the first three decades of the Territory) were threatened with dismissal for using Hawaiian in school. Some were even a bit leery of using Hawaiian place names in class. Teachers were sent to Hawaiian-speaking homes to reprimand parents for speaking Hawaiian to their children. Most subtle of all, but most effective, was a psychological approach emphasizing a European view of precontact Hawai'i as a simple world that alternated between paradise and hell; a world whose original language had no relevance as a first language in modern or future Hawai'i. The reference to Hawaiian as an obsolete language is especically audacious in light of modern use of Hawaiian to conduct monarchical business, the legislature, and other Western activities.

This psychological approach stemmed from an ideological belief in the superiority of the American ethnic group and its culture by the administration of the Department of Education. This department was controlled, not by the popularly-elected legislature, but by the appointed governor, who was part of the Engish-speaking community. The administrative bias against Hawaiian language was so powerful that the Department of Education effectively ignored both the letter and spirit of laws emanating from the legislature to ensure the survival of the Hawaiian language through the school system. The major laws referred to here are the act of 1919 requiring that Hawaiian be taught in high schools and teachers' colleges, and a 1935 provision requiring daily instruction in the language in schools serving Hawaiian Home areas. Both provisions were deleted from the law in 1968, but a new requirement was revived in the form of an amendment to the Hawai'i Constitution in 1978.

Resistance to English usage was steadfast in Hawaiian churches, where reading and writing Hawaiian language was incorporated into the Sunday school curriculum. It has only been in the past two decades that English services have predominated in many Hawaiian churches, and this has occurred primarily because most native-speaking Hawaiian ministers have died. While other Hawaiian churches go to considerable efforts to include Hawaiian readings, lessons, and hymns in the predominantly English services today, there are still congregations that conduct their services entirely in Hawaiian. Like the churches, Hawaiian benevolent organizations strictly maintain the Hawaiian language.

However, these organizations face extinction unless they begin to accommodate younger English-speaking Hawaiians.

The Hawaiian press also continued, in spite of the policy to replace it with English. In the initial years of the territory the press moved into new areas such as the printing of traditional stories and modern, locally-produced nonfiction about the history of folk heroes who defended Hawaiian sovereignty. Hawaiian-language publications gradually decreased with the passing of readers who could understand the language. The last secular paper went out of business after World War II; and the last Hawaiian-language church periodical in the 1970's. There are still occasional Hawaiian columns in publications read primarily by Hawaiians.

Hawaiian language groups occasionally publish newsletters and other material in Hawaiian. There is a weekly, one-hour radio talk show in the language (since 1973), and another weekly bilingual program featuring Hawaiian music. The most important response, and the one that is responsible for the existence of many of the native speakers of Hawaiian living today, was the refusal of many parents and grandparents to speak English to their children in spite of discouragement by teachers. In many cases families refused to allow children to speak any English to them at all, because they believed that Hawaiians should speak to one another in their own language. This attitude was especially strong when individuals raised during the monarchy were dominant in the territory, and it has not died out entirely. There still exist some very few individuals on the major islands who raise their children to speak Hawaiian at home, as well as the residents of Ni'ihau, who speak only Hawaiian.

In response to the move to replace the Hawaiian language with English, organized grassroots efforts specifically directed towards strengthening the Hawaiian language and culture appeared under the American administration. A Hawaiian Language League based on the Gaelic League was organized in the 1930's, and a Hawaiian language school was also organized. In the 1950's, Lalani Hawaiian Village was created for the purpose of teaching Hawaiian language and culture. Ulu Mau Village was created in the 1960's with a similar goal. Both attempts met with an early demise. The 1970's saw the creation of the 'Ahahui 'Ōlelo Hawai'i, an organization established through assistance from the Kamehameha Schools to promote the Hawaiian language. This group is still actively pursuing its goal.

Hawaiian language then, continues the fight to survive. There is considerable resiliency among those involved with the language. The effort to continue and strengthen the language has a solid core of support in the general population, among the Hawaiians as well as non-Hawaiians. 26/

Hawaiian would certainly have remained the first language of the majority of the native Hawaiian population and a likely number of locally-born non-Hawaiians if it were not for the rigorously pursued policy of the territorial administration to replace Hawaiian with English. The efforts of early local legislators to ensure the language's survival through legislative support would certainly have been more successful with a fair-minded administration. A reversal of the trend towards English medium schools might have even occurred around 1920 once the formation of the Hawaiian Language League showed that Hawaiians were aware and anxious to participate in a worldwide language revival movement. As history developed, however, the schools eliminated their language from the lives of several generations of Hawaiians.

The Role of Pidgin

In the previous section, a form of broken Hawaiian used with foreigners is described. This language, which originated before the missionaries established the English-speaking community in Hawai'i, has as its descendant, "pigdin," the language that has been used in an attempt to fill the void caused by the eradication of Hawaiian. The replacement is hardly equal to Hawaiian in the realm of aesthetic culture, but it serves well the primary role of any language in the base culture: the identification of a people as a unique and cohesive entity, with continuity of basic family values.

Pidgin as we know it today is termed "Hawai'i Creole English" by linguists who have shown great interest in its development as proof of the language-generating ability of the brain in filling a language void. Pidgin, like Hawaiian at the time of annexation, is identified with *locals*; that is, people whose primary cultural identification is with Hawai'i. This includes all Hawaiians and the majority of plantation descendants, but not the descendants of the original English-speaking community. The term is not truly racial, since "local" includes descendants of Portuguese, Russian, Scandinavian, and German plantation laborers, as well as the Japanese, Chinese, Filipino, Okinawan, Puerto Rican, Gilbertese, and other ethnic groups that were brought to Hawai'i to supplement the Hawaiian group.

Besides the primary cultural identification, there is also a class identification, growing out of the fact that the English speakers tended (and still tend) to hold better-paying and more prestigious jobs. Linguistically, pidgin is a full and complicated language, but sociologically it is identified by negatives--that is, not being North American English. There are certainly many differences between the local pidgin and North American English. These include:

- Pronunciation (for example, pronouncing *rotten* as *raten* rather than the general American *ra'n*);

- Intonation (for example, the use of the question intonation of the Hawaiian language rather than of English);

- Vocabulary (for example, using *soda* for American *pop*, and *funny kind* for American *weird*);

- Stress (that is, following the Hawaiian rule of penultimate stress rather than an American tendency towards antepenultimate stress, as in local *strawbérry* versus American *stráwberry*); and

- Grammar (for example, use of the Hawaiian calque "Long time, I never go," where American English would use "I haven't gone for a long time.")

The examples below give further illustration of the nature of pidgin, showing the strong Hawaiian language origins of pidgin, combined with the genius for language creation exhibited by the children who first made it their own language.

I no more money.
(I don't have any money.)

You go come on your pickup.
(Come in your pickup.)

John guys like help.
(John and his friends want to help.)

Funny kind this fish.
(This fish is unusual.)

The *wahine* stay *hāpai*.
(The lady is pregnant.)

Pidgin was not spoken as a first and native language by anyone until about 1910. Much of the popular English press and initial study of the language in the 1930s attributed it to a simple mixture of English and the languages spoken on the plantations. This simplistic explanation cannot explain the strong Hawaiian flavor of the language in terms of grammar, intonation, stress, and vocabulary, when Hawaiians were such a tiny minority in the plantation work force. Recent research 27/ has shown what even the *haole* plantation owners of the monarchy period recorded: that broken Hawaiian, not broken English, was the language of the plantations; and pidgin was originally a form of Hawaiian. Broken Hawaiian was used not only on the plantations, but to speak with anyone who had a poor command of Hawaiian, including *haole* residents of Hawai'i. There were of course many non-Hawaiians who spoke Hawaiian well during the monarchy through the turn of the century, and there were even non-Hawaiians who spoke Hawaiian better than their ancestral languages, because Hawaiian was the language of the community in which they were raised. The broken or pidgin language was quite common, however, due to the great influx of immigrants with the rise of the sugar industry.

At the turn of the century, English and Hawaiian words started to become interchanged more frequently in pidgin and, as the twentieth century progressed, English vocabulary came to predominate. Much of the structure and pronunciation of the basic broken Hawaiian remained, along with much Hawaiian vocabulary, some of it restricted to use in broken Hawaiian (for example, *kaukau*--"food", "eat," versus normal Hawaiian *mea'ai*--"food," and *'ai*-- "eat"). About 1910, children started to use this language among themselves, and developed greater strength in it than they had in their parents' languages or the proper English language that was taught in school. This process, termed creolization, involved all Hawaiian children (except those of Ni'ihau) by 1920, as well as the children of the immigrant plantation workers. 28/ Creolization resulted in a pidgin that grew more complex in its grammar, sound system, speed of delivery, and ingenuity of slang.

Creolization of pidgin was the perfect tool for local children to resist the campaign to force them to speak English. Pidgin is English, and yet it really is not. Thus, the children were able to comply with the heavy campaign to make English the language of the territory and still not truly cooperate with what Hawaiians saw as persecution of their own language, nor identify linguistically with the *haole* group who were viewed as more concerned with their own power than with the rest of the population on human terms.

Pidgin is also Hawaiian, and yet not really Hawaiian. This also suited the children. The identity with Hawai'i and the Hawaiian people was a very positive thing not only for the Hawaiian children themselves, but also for the immigrant children who saw themselves as different from their foreign parents. The fact that the language was not really Hawaiian was important in that it distanced Hawaiian and immigrant child alike from the picture of a primitive stone age race doomed to die, which was presented in the school system in accordance with the ideology espoused by the English speakers controlling the department.

The development of pidgin assured the cultural survival of Hawaiians and those who chose to identify with them as locals, when the only alternative seemed to be to completely give up a cohesive Hawaiian identity that relied on the existence of a unifying language. Pidgin assured a Hawaiian identity, but it was used against local people by the English speakers in the same way that Hawaiian had been. Individuals were chosen for jobs based on their skills in English, not pidgin, although the majority of those with whom one might deal in the position might speak pidgin. Just as had been done earlier in distinguishing between English language schools and Hawaiian language schools during the monarchy, government English Standard schools for those speaking Standard English were established during the 1920's by the territorial government for those who aspired to higher positions. (See chapter on "Education," above). Entrance to these schools was by a test of English ability. Very few Hawaiians could pass the test, and it was even more difficult for most plantation children, whose parents had absolutely no formal contact with English. Most of those who passed were the more middle-class Americans who had migrated to Hawai'i to fill new white collar jobs in the territory when these were vacated by the Hawaiian speakers. The older, more well-to-do American families, however, sent their children to the prestigious private schools.

Although the development of pidgin saved the Hawaiian identity from eradication, the replacement of Hawaiian with pidgin added fuel to the philosophy that things Hawaiian are primitive and have no place in the modern world. Without a knowledge of Hawaiian, students cannot examine Hawaiian literature and records of modern Hawaiians functioning within their own indigenous language and culture. Their knowledge of themselves had to be filtered through an English viewpoint, which is strongly prejudiced towards itself and against Hawaiian culture. Thus, pidgin cuts Hawaiians off from their ancestral roots and aesthetic culture, along with the adaptive tradition to technological society that is also their heritage.

Pidgin also handicaps local children's social standing, because it is viewed as an inferior version of English. Hawaiian can never be viewed as an inferior form of English and to speak Hawaiian using Engish rules is to speak inferior Hawaiian. Because it is its own full language, Hawaiian determines its own boundaries and contains its own gradations of language use within itself. There is no anomaly to having an opera in Hawaiian, formal debates in Hawaiian, written literature in Hawaiian, or high church services in Hawaiian, and all of these have been done in the language. There is even a certain preference for Hawaiian over English for the ceremonial opening of the legislature or new buildings, for example. Pidgin would never be seriously used in today's social context for any of these purposes. The only time that pidgin is consciously used in print or on stage is for a comical effect; otherwise listeners interpret it as speaking down to them.

Pidgin puts local people at the bottom of the English-language status structure, which is somewhat ironic in view of the fact that English itself has a pidgin-like history. 29/ This status has nothing to do with the structure of the language, which is in some ways more intricate than Standard English (particularly in its tense structure), but with its historical connection with broken English. Since the position of one's language in the hierarchy of English dialects affects the impression one gives in both the educational and employment fields, pidgin labels its speakers as unqualified, no matter what their intellect. Also, since the pidgin culture is a subculture of the larger American English-speaking culture, its members generally accept the status hierarchy and apply it themselves! An amazing example of this is the fact that as Hawaiian-speaking ministers die off, Hawaiian congregations are replacing them, not from their own pidgin-speaking ranks, but with mainland, Standard American English speakers. Thus, the replacement of Hawaiian with pidgin has taken Hawaiians (except those of Ni'ihau) to the final point of loss of control over themselves, which first occurred when the decision was made that members of the English-speaking missionary community would be appropriate in high government service, performing duties formerly handled by members of the Hawaiian-speaking community.

Present thinking in Hawai'i is that elimination of pidgin in favor of Standard American English will solve many educational and occupational problems for local people. The history of what has happened with the replacement of Hawaiian by English does not support this thinking. The worst scenario (with the elimination of this last true linguistic unifying factor of Hawaiians) is that Hawaiians would be considered completely assimilated and the term "Hawaiian" would be applied to anyone resident or born in Hawai'i. This would open up the loss of rights that accompany the Hawaiian identity, and the dispersal of Hawaiians for economic reasons from their traditional homeland to lower economic areas on the North American continent.

Even if it were desirable to replace pidgin with American English (because of the fact that any slight non-North American feature can be used to label a person a speaker of "pidgin"), it will never be completely possible to eliminate the local sound, and the accompanying negative reaction it evinces in speakers of Standard American English. Just as it will never be possible for New Yorkers to all sound like Texans, it will never be possible for all local people to speak like Nebraskans, for the simple reason of demographics. Another reason that pidgin cannot be replaced altogether by Standard American English is that it carries a very positive and highly-valued association with the local Hawai'i identity. For non-Hawaiian, immigrant-descended "locals," whose ancestors may have spoken good Hawaiian and who certainly spoke the broken plantation language, abandonment of pidgin is a possibility if they wish to give up their local identity. Most do not, and there is ample evidence for non-Hawaiian locals emphasizing their localness over their own ethnic background, as well as over any identity with Standard American English.

For Hawaiians, however, localness is included in their Hawaiian blood and appearance. They have no choice of becoming a Japanese-American or Filipino-American (versus a local Hawai'i-Japanese or a local Hawai'i-Filipino), with an identity that does not include Hawai'i. A Hawaiian must always be identified with Hawai'i and even emigration will not change that. A consequence of this obligatory local identification that Hawaiians carry is a stronger attachment to pidgin among Hawaiians than among other ethnic groups. This attachment has been observed by linguists who have noticed an increase rather than a decrease of pidgin features in the speech of Hawaiians in recent years.

One of the ironies of pidgin is that the present pidgin-speaking generation is often observed as speaking poorer English than the native Hawaiian speakers educated in English at the turn of the century. It has also been observed that with all the exposure of modern-day Hawaiians to Standard English on television, newspapers, and in the American school system, citizens of small Pacific Island nations preserving their indigenous languages often speak better English than the "civilized" Hawaiians. Something is clearly wrong when the Hawaiian language has been sacrificed in the name of the English language and instead of a great leap forward in terms of benefits in English, there appears to be a regression.

One explanation for this situation is the fact that the Hawaiian-speaking Hawaiians and indigenous language-conserving Pacific Islanders look upon learning English in a different way than pidgin speakers do. For speakers of full Polynesian languages, learning English is simply a skill. For the pidgin speaker, learning Standard English represents a threat to his identity and the identity of the group, because that identity is maintained by not using Standard English pronunciation, vocabulary, intonation, and so forth.

A second explanation for the impressive English of Hawaiians of the monarchy period and citizens of several modern South Pacific nations is that the British English favored by them for their schools has greater status than the American English taught in contemporary Hawai'i schools. Although not generally considered by educators in Hawai'i, American English has less prestige than British English internationally, and although the difference in status is not as great as between pidgin and Standard English, the added status of British English can make a South Pacific Islander of equal intelligence to an ordinary American appear more intelligent, even to other Americans. For the same reasons that pidgin speakers feel attached to their dialect of English, American speakers are attached to their dialect of English and have not adopted the higher status British form of the language. Speakers of Hawaiian during the monarchy had no allegiance to any dialect of English, be it American, British, or Australian. It was only natural for them to feel that if they were going to learn the English language, they should learn the dialect that would give them the most prestige, and therefore serve them the best. From that point of view, their choice of British English as their dialect of English was a logical one.

Perhaps the strangest feature of the replacement of Hawaiian with pidgin is how it has been reflected in Hawaiian behavior. This feature really has nothing to do with pidgin per se, but with the image of Hawaiians as depicted through the medium of English. In an attempt to assert their distinct identity from the English speakers, some Hawaiians have consciously or subconsciously tried to live up to what the English-language literature describes as "Hawaiian," and also be the opposite of what English-language literature describes as "American." Neither of these things really has anything to do with what is a Hawaiian view of Hawaiian-ness, which, of course, is recorded in Hawaiian. This method of self-identification has caused great trauma in the Hawaiian community because the English-speaking community and media immediately recognize it as "Hawaiian" by their own definition, even when it is in direct conflict with traditional Hawaiian values.

The negative features of pidgin and lack of status are obvious. The fact that pidgin is most decried by the English-speaking group should serve as notice that eliminating pidgin in favor of Standard American English would probably not be in the best interests of the Hawaiian people. The positive features of pidgin must always be recognized: maintenance of the unity and identity of Hawaiians in the face of the elimination of the ancestral tongue for so many; and a means for continuing in large part the traditional base culture of the Hawaiian people referred to above, for which purpose Standard English is not overly-well suited.

Creolization of pidgin was really the only solution that local children had in order to retain that distinct and primary Hawaiian cultural identity within the context of compulsory education in English. This education deprived them of a full Hawaiian language education, and even deprived them of time with their families, important in developing full control of the entire spectrum of the Hawaiian language. The same forces that created pidgin initially are presently with us, and work against ever replacing it with Standard American English, or even making such a replacement in the best interest of Hawaiians. What then is the alternative? The revival of Hawaiian as a primary language for local people is a natural proposal for anyone at all familiar with the achievements of Hawaiians in their own language and with similar situations in other parts of the world where language revival had made a considerable difference in people's lives. 30/

C. HISTORIC PRESERVATION

Introduction

Title I of the National Historic Preservation Act of 1966 authorizes the Secretary of the Interior to expand and maintain a National Register of Historic Places "composed of districts, sites, buildings, structures and objects significant in American history, architecture, archeology, engineering and culture." 31/

Historic preservation is basically a citizen, not a government, movement. Action by the private sector is supported, not initiated, in Hawaii by the County, State, and Federal Governments. The Hawaii State Historic Preservation Plan defines the roles of these respective sectors in the following way:

> Private Sector: Increasing numbers of people from all walks of life are beginning to realize that action is needed to protect the rapidly diminishing treasure of historic resources and that private efforts are often the most cost-effective.
>
> County Governments: Counties are the level of government where the average citizen can most effectively be involved in the decision-making process. It is through the County government that community preservation priorities can be voiced and action best tailored to those priorities can be initiated.

State Government: The lead agencies in the State of Hawaii for historic preservation are the Department of Land and Natural Resources, the Department of Accounting and General Services, the Department of Education, and the University of Hawaii.

Federal Government: The primary role of the Federal Government in historic preservation is one of guidance and assistance. Guidance is provided in the form of setting criteria for evaluating resources, and in determining the requirement for grant programs. Assistance is in the form of grants, technical assistance, and leadership in the formation of policy and standards for historic preservation. The two federal agencies primarily responsible for historic preservation are the Department of the Interior and the Advisory Council on Historic Preservation, an independent agency of the Executive Branch. 32/

Federal Government Involvement

The Federal Government greatly influences the administration of State and local historic preservation programs. Part of the duties of the Hawaii State Historic Preservation Officer, who is appointed by the Governor to serve as a liaison to the Federal Government, is to coordinate these diverse Federal activities.

Federal involvement in the State and local management of historic preservation programs can be summarized as follows:

- Identification and evaluation: survey programs (Historic American Buildings Survey, Historic American Engineering Record); availability of grants for State, local, or private surveys; National Register and National Historic Landmarks programs; and requirements for Federal projects to undertake surveys and authorization to use funds for that purpose (Archeology and Historic Preservation Act of 1974, Department of Transportation acts).
- Protection: requirement that any activity on Federal land or licensed, funded, or certified by the Federal Government must be reviewed by the Advisory Council for adverse effects (National Environmental Policy Act, National Historic Preservation Act of 1966, as amended).
- Preservation and enhancement: National Parks; authorization to transfer surplus property to State or local government for historic preservation purposes; availability of technical services on preservation technology; tax incentives; and availability of grants and loans.
- Overall planning and administration: availability of grants for planning; requirement to have a State Historic Preservation Officer (by mandate of National Historic Preservation Act of 1966); and national policies embodied primarily in the National Historic Preservation Act of 1966 and Historic Sites Act of 1953. 33/

State Historic Preservation Plan

The State Historic Preservation Plan of the State of Hawaii was prepared as one of twelve functional plans detailing the overall Hawaii State Plan. Based on the priorities of the Hawaii State Plan, the following are the priorities identified for historic preservation in Hawaii:

1. Develop a comprehensive inventory of historic properties, including areas possessing rural character and lifestyle.
2. Identify from the inventory those areas that are "critical."
3. Develop protective mechanisms so that urban development can either be directed away from critical areas or mitigating measures can be imposed to minimize negative impacts.
4. Develop a program to preserve and enhance the significant historic properties, especially those along the shoreline.
5. Particular emphasis should be given to rehabilitation of existing areas; this action serves a double function in terms of directing urban growth to existing areas and preserving historic properties. 34/

The State Historic Preservation Plan discusses six major activities within historic preservation: the collection and conservation of records; the collection and conservation of oral histories; the collection and conservation of artifacts; the perpetuation of traditional arts and skills; the preservation of archeological and historic properties; and the presentation of information to the public. The Plan sets forth policies, proposes implementation measures, and identifies problem areas for each of these activities.

Federal and State Registers

Because of its importance in protecting native Hawaiian archeological and historic sites, this section focuses on State and Federal activities related to the National Register of Historic Places. 35/ The National Register of Historic Places was designed to be a planning tool. It is an authoritative guide to be used by Federal, State, and local governments, as well as by private groups and citizens, to identify the nation's cultural resources and to indicate what properties should be considered for protection from destruction or impairment.

There are several effects of being listed in the National Register. Included in these effects are the following:

- Listing in the National Register makes property owners eligible to be considered for Federal grants-in-aid for historic preservation;
- If a property is listed, certain provisions in tax laws encourage the preservation of depreciable historic structures by allowing favorable tax treatments for rehabilitation; and

- Other tax provisions discourage destruction of historic buildings by eliminating certain otherwise available Federal tax provisions both for demolition of historic structures and for new construction on the site of demolished historic buildings.

The National Register listing does not always prevent a federal activity from adversely impacting an historic property. It does require, however, that serious consideration be given to the impact and that it be fully justified before beginning the activity.

The State of Hawaii also has a Hawaii Register. The Hawaii Register is a planning tool that assists in the assessment of the impact of any action, be it public or private, on historic properties located in the State. Likewise, Hawaii Register listing does not prevent an activity from adversely affecting an historic property, but it does require that some consideration of the impact be taken before the action occurs. In addition to the State Register, there are also several evaluative lists that exist on the county level in Hawaii.

Criteria for Evaluation

The criteria for evaluation are used: to evaluate properties for nomination to the National Register; by the National Park Service in reviewing nominations; and for evaluating National Register eligibility of properties. The criteria are:

> The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and
>
> (a) that are associated with events that have made a signficant contribution to the broad patterns of our history; or
>
> (b) that are associated with the lives of persons significant in our past; or
>
> (c) that embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
>
> (d) that have yielded, or may be likely to yield, information important in prehistory or history. 36/

These criteria emphasize the "tangible" aspects of historical sites such as buildings and objects, rather than the "intangible" aspects of culture. The significance of this distinction is particularly important for protection of historical religious sites. Unless there is some tangible structure (a heiau, for example), such sites are not usually considered eligible for inclusion in the National Register. In order to be eligible, these sites must be documented as having historical cultural, political, or religious value. Sites having current or contemporary religious value are not deemed eligible for protection.

This is, of course, a difficult distinction to make. In the case of native Hawaiians, the situation is complicated even more because of the necessity of scholarly documentation of historical value. The oral tradition in transmitting Hawaiian culture and history means that documentation is more often contained in chants and legends handed down orally, than in scholarly works of historians.

The State of Hawaii has additional criteria used by the Review Board in evaluating properties for listing in the Hawaii Register. These criteria are:

1) Structures and sites closely related to events, ideas, groups, persons, or cultural patterns that have contributed significantly to Hawaii's history or to the broad patterns of the Pacific area or national history;

2) Structures that embody characteristics valuable for the study of a period, style, method of construction, an architectural curiosity or picturesque work, representative structures of a master builder, designer, or architect, or eastern or western styles adapted to Hawaii's climate or way of life;

3) Districts, large or small, comprising an ensemble of structures or features that individually may not have a particular merit but collectively have significant historical, cultural, or architectural or environmental importance;

4) Objects associated with significant events, persons, ideas or that are valuable for high artistic merit or as a study specimen of a period, style or method of construction, or a notable representative work of a master craftsman or designer;

5) Properties that have yielded, or are likely to yield, information in prehistory or history;

6) Quality, of which integrity is the essence. Integrity is composite derived from original workmanship, original location and intangible elements of feelings and association;

7) Environmental impact, the preservation of this site, structure, district or object significantly enhances the environmental quality of the State;

8) Social, educational, and recreation value of the site, structure, district, or object preserved, presented or interpreted contributes significantly to understanding and enjoying Hawaii, the Pacific area or the nation's history and culture. 37/

Processes for Nomination

A property can be added to the National Register through one of five processes:

1) Those Acts of Congress and Executive orders that create historic areas of the National Park System administered by the National Park Service, all or portions of which may be determined to be of historic significance consistent with the intent of Congress;

2) Properties declared by the Secretary of the Interior to be of national significance and designated as National Historic Landmarks;

3) Nominations prepared under approved State Historic Preservation Programs, submitted by the State Historic Preservation officer and approved by the National Park Service (the nominations may be generated by the State Historic Preservation Program itself, or by any citizen or group within the State that wishes to make a nomination);

4) Nominations from any person or local government (only if such property is located in a State with no approved State Historic Preservation Program) approved by the National Park Service; and

5) Nominations of Federal properties prepared by Federal agencies, submitted by the Federal Preservation Officer, and approved by the National Park Service.

The most relevant process for the purposes of the Native Hawaiians Study Commission are those involving the State Historic Preservation Programs and Federal agencies.

On the State level, the State Historic Preservation Plan details the implementation of the registration process in Hawaii and recent problems in that process:

> The Registration of Hawaii's historic properties commenced in 1971 when the Hawaii Historic Places Review Board was formed. The Review Board is comprised of professionals in the fields of archaeology, history, architecture, sociology and Hawaiiana...
>
> In 1980, 579 sites were removed from the State Register because of a procedural error in notifying the property owners. Although the sites on State property have been placed back on the Register, very few privately owned sites have been resubmitted. Many extremely valuable archaeological sites are not on the Register because [the Department of Land and Natural Resources'] staff is limited in size, and the review of development projects is its highest priority. 38/

State Nomination Process: For any State, the State Historic Preservation Officer has the responsibility for making the first determination of which properties meet the criteria for evaluations. To ensure high professional standards, the National Park Service requires that each State develop expertise in the disciplines of history, architectural history, archeology, and historical architecture, on the State staff and State Review Board. Nominations are prepared under the supervision of the State Historic Preservation Officer and his or her professional staff in accordance with the approved State historic preservation plan.

The State Historic Preservation Officer submits nominations to the State Review Board where they are reviewed and a recommendation concerning whether or not the property meets the National Register criteria for evaluation is made. The State Historic Preservation Officer again reviews the nomination after its consideration by the Review Board, signs it, and forwards it to the National Park Service.

As part of the nomination process, the State is required to notify in writing the property owner(s) of the State's intent to bring the nomination before the State Review Board. Upon notification, any owner or owners of a private property who wish to object to listing the property in the National Register can submit a statement to that effect to the State Historic Preservation Officer. If the sole owner of a property (or a majority of owners in the case of multiple ownership) object to the listing, the property will not be listed in the National Register. Rather, if the nomination is subsequently submitted by the State Historic Preservation Officer, the Keeper of the National Register will make only a determination of eligibility. Once the objection of the owners is lifted, the property will be automatically listed on the National Register.

Nomination may also be made by individuals and organizations by submitting an adequately documented National Register nomination form to the State Historic Preservation Officer (or Federal Preservation Officer). If the nomination form is in order and if the property appears to meet the National Register's criteria for evaluation, the nomination must be scheduled for presentation at the earliest possible State Review Board meeting. This scheduling must take into account, however, the State's established priorities for nomination.

Federal Agency Nomination Process: The National Historic Preservation Act of 1966 requires each Federal agency to establish a program to locate, inventory, and nominate to the Secretary of the Interior all properties under the agency's ownership or control that appear to qualify for inclusion on the National Register. In addition, Executive Order 11593 provides that Federal agencies shall locate, inventory, and nominate to the Secretary of the Interior all sites, buildings, districts, and objects under their jurisdiction or control that appear to qualify for listing on the National Register of Historic Places.

Nomination forms are prepared under the supervision of the Federal Preservation Officer designated by the head of each Federal Agency. Completed nominations are submitted to the appropriate State Historic Preservation Officer for review and comment regarding the adequacy of the nomination, the significance of the property, and its eligibility for the National Register. The chief elected local officials of the county in which the property is located are notified and given 45 days in which to comment.

After receiving the comments of the State Historic Preservation Officer and chief elected official, or if there has been no response within 45 days, the Federal Preservation Officer may approve the nomination and forward it to the Keeper of the National Register.

Determination of Eligibility: Many Federal agencies have not completed the inventory of all properties under their ownership that appear to qualify for inclusion on the National Register. In the absence of such inventories, and before any projects are undertaken that may harm possible historical sites, Federal agencies are required to request the opinion of the Secretary of the Interior regarding properties that may be eligible for inclusion on the Register. Thus, the Keeper of the National Register will make a "determination of eligibility" regarding such properties.

An important role in this process is played by the Advisory Council on Historic Preservation. The Council has regulations whose purpose is to protect properties included in, or eligible for inclusion in, the National Register. This protection is afforded through review and comment by the Council on Federal undertakings that affect such properties. The process of consultation is designed to ensure that alternatives to avoid or mitigate an adverse effect on a National Register or eligible property are adequately considered in the Federal agency's planning process. It should be noted, however, that ultimately the decision lies with the Federal agency on whether or not to change its plans.

Determination of eligibility does not constitute listing in the National Register. However, properties determined eligible receive the same governmental protection from harm and destruction as those on the Register. Private owners of property on the eligible list are not eligible for benefits such as grants, loans, or tax incentives that have listing on the National Register as a prerequisite. Determination of eligibility may be made with or without the request of the Federal agency involved.

After the determination, written notice is given to the Federal agency and the State Historic Preservation Officer. In addition, public notice of properties determined eligible is published in the Federal Register.

Differences in Review Processes: There are several differences between the review procedures for Federal and State/County projects. The Hawaii State Historic Preservation Plan summarizes them as follows:

- Differences in legal authority: Legal authority mandating review of federal projects stems primarily from Sec. 106 of the National Historic Preservation Act of 1966, Executive Order 11593, the National Environmental Policy Act, and Sec. 4F of the Department of Transportation Act of 1966. Legal authority mandating review of the State/County projects stems from Sec. 6E-8, [Hawaii Revised Statutes].

- Differences in reviewing agencies: The primary reviewing agencies for federal projects are the State Historic Preservation

Officer and the Advisory Council on Historic Preservation. For State/County projects the reviewing agency is the Department of Land and Natural Resources.

- Differences in review procedures: There are two major differences. One difference between Federal and State/County review procedures is that Federal projects must consider effects to properties eligible for the National Register, as well as those already listed on the Register. The provision to consider eligibility is very important in that it requires an identification and evaluation of historic resources in unsurveyed areas. State/County projects must also consider unregistered properties; however, the determination of eligibility procedures are not formulated...The second major difference is the availability at the Federal level of a conflict resolution mechanism if there is disagreement over appropriate mitigative measures. The mechanism is the Advisory Council on Historic Preservation. There is authority already established at the State level to implement a similar advisory council to advise the governor when conflicts arise between State agencies (Sec. 6E-8); however, the provision has not been implemented. 39/

Acceptance on the National Register

Generally, the National Park Service relies on States and Federal agencies to identify historic properties for National Register listing. Because of the experience and ability of the States and Federal agencies in identifying and evaluating historic and cultural properties, the National Park Service will, in most instances, list nominations by States with approved State programs and by Federal agencies without substantive review. This acceptance requires that the Federal agency or State certify that the procedures for making nominations have been properly followed, the documentation is sufficient, and the nomination meets the National Register criteria for evaluation.

Appeals for Nomination

The Department of the Interior is in the process of establishing procedures for appealing nominations. Under these procedures, any person or local government may appeal to the Keeper of the National Register the failure or refusal of a nominating authority to nominate a property that they consider to meet the National Register criteria for evaluation.

An applicant seeking to have property nominated to the National Register may appeal directly to the Keeper under the following circumstances:

Where the applicant--

1) Disagrees with the decision of the State Historic Preservation

Officer or the Federal Preservation Officer not to submit an adequately-documented nomination form to the National Park Service after it has been processed by the State or Federal agency;

2) Disagrees with a decision of the State Historic Preservation Officer not to submit an adequately-documented nomination form to the State Review Board;

3) Believes that the State Historic Preservation Officer has not scheduled an adequately-documented nomination form for State Review Board consideration within a reasonable period of time consistent with the State's priorities for nominations.

The Keeper will respond in writing to the request within 30 days. The decision may:

- Deny the appeal;
- Recommend that the State Historic Preservation Office submit the nomination form to the State Review Board;
- Recommend that the State Historic Preservation Officer submit the nomination form to the State Review Board for consideration at an earlier date than scheduled;
- Provide notice that the Keeper will consider for listing a nomination form previously approved or disapproved by the State Review Board or a Federal agency nomination form.

Current Historic Preservation Issues

The preceding sections have concentrated on existing State and Federal laws on historic preservation. However, as pointed out in comments received by the Commission, 40/ there are numerous practical problems in the implementation and enforcement of these regulations.

Native Hawaiians are concerned about protection of ancient religious sites--a concern that was voiced to the Commission not only in the written comments cited above, but in public testimony before the Commission in January 1982. 41/ At the State level, a comment from Kenneth Chan notes that "the State Historic Preservation Plan has not even been adopted into law, and has in fact been shelved for the past three years. There is no comprehensive plan adopted and utilized by the State at this time." 42/

Another problem already mentioned above is the removal of 579 sites from the State Register because they were not properly registered. In addition, staffing and funding difficulties also plague the State's historic preservation program.

The problems of protecting historic sites of importance to native Hawaiians are not totally administrative, however. An even greater difficulty may be that criteria for eligibility as they now exist do not always address the religious and cultural significance of land regarded as sacred by native Hawaiians. According to one native Hawaiian:

> The concerns of Hawaiians...are different from the concerns of archaeologists. We are trained in the Western scientific tradition. We see archaeologic sites primarily as repositories of information. This is in

> contrast to the view of Hawaiians of archaeologic sites as areas of cultural and religious significance. Insufficient concern is exhibited at all levels of government to the views and opinions of Hawaiians about archaeologic sites. The very structure of the mechanisms designed to protect sites which meet Western criteria of significance, neglect sites significant to Hawaiians which don't meet these criteria... Sites without significant research value or which do not meet the historic criteria are ineligible for protection [by the National Register of Historic Places]. A sacred site of extreme importance to Hawaiians may quite easily be ineligible for protection. Mechanisms must be designed to protect sites of this type. 43/

The most publicized problem of historic preservation in Hawaii, however, involves the island of Kahoolawe. 44/ The U.S. Navy continues to utilize the island as a target for bombing practice, even though it is now listed on the National Register of Historic Places. Several years ago native Hawaiian groups began protesting the bombing of Kahoolawe because it is regarded as sacred and contains numerous archaeological sites. At present, the U.S. Navy does allow native Hawaiian groups access to the island on a limited basis.

NATIVE HAWAIIAN CULTURE

TABLES

TABLE 59

A COMPARISON OF SOME WORDS IN HAWAIIAN AND OTHER EASTERN POLYNESIAN LANGUAGES

HAWAIIAN	TAHITIAN (46% cognate)	C.I. MAORI */ (64% cognate)	N.Z. MAORI (56% cognate)	
maka	mata	mata	mata	'eye'
maika'i	maita'i	meitaki	pai	'good'
wahine	vahine	va'ine	wahine	'woman'
'eke	'ete	kete	kete	'bag'
pepeiao	tari'a	taringa	taringa	'ear'
lani	ra'i	rangi	rangi	'sky'
lima	rima	rima	ringa	'hand'
kai	miti	tai	tai	'sea'

---

*/ The high percentage of cognates between Cook Islands Maori and Hawaiian is not due to a more close genetic relationship between the two languages, as compared to say between Hawaiian and Tahitian. This high percentage of cognates is due instead to a certain conservativism in retaining old vocabulary in both languages.

TABLE 60

A COMPARISON OF TERMS USED IN DIFFERENT PARTS OF HAWAI'I */

O'ahu	Ni'ihau	Kipahulu	Puna	
kahakai	kahakai (kahatai)	kahakai	kahakai	'sea shore'
'ōhua	piaia	'ōhua	'ōhua	'baby manini fish'
uhi	uhi	palau	uhi	'yam'
pepeiao	pepeiao	pepeiao	pepeiao	'ear'
pule	pule	pule (pure)	pule	'pray'
makahiki	makahiki (makahiti)	makahiki (makahiti)	makahiki	'year'
kai	kai (tai)	kai	kai	'sea'
wai (vai)	wai	wai	wai (vai)	'water'
'eiwa ('eiva)	'eiwa	'eiwa	'eiwa ('eiva)	'nine'

---

*/ Where the pronunciation and spelling differ, the pronunciation is given in parenthesis.

TABLE 61

A SAMPLING OF SOME TERMS FOR RAIN IN HAWAIIAN

kilihune	light rain often with some sun
nāulu	a shower, as often forms over the sea
uakoko	rain with a low lying rainbow in it
nahekili	large dropped rain
līlīnoe	soft rain, almost mist-like in density
ualanipili	heavy rain that lasts for days
lihau	rain that causes dew-like droplets on plants
kāhiko o ke akua	poetic term for rain (lit. adornment of the deity)
lelehune	fine wind blown rain
ua'awa	cold dripping rain as found in the high volcano areas
ko'iawe	light moving rain
ililani	unexpected rain from a clear sky in which it has been carried by breezes from the mountains

TABLE 62

A Comparison of the Native Phonemes of Hawaiian and Some Other Eastern Polynesian Languages

HAWAIIAN	TAHITIAN	SOUTHERN MARQUESAN	COOK IS. MAORI
a	a	a	a
e	e	e	e
i	i	i	i
o	o	o	o
h	f	f	'
h	h	h	'
k	t	t	t
l	r	'	r
m	m	m	m
n	'	ng	ng
n	n	n	n
p	p	p	p
w	v	v	v
'	'	'	k

Note: ' represents the glottal stop while ng represents the velar nasal.

Note: the table compares only the symbols used to write the languages while other Polynesian languages, like Hawaiian, often have regional and positional variants for consonantal phonemes of the type illustrated for Hawaiian in Table 60. Table 62 includes only phonemes found in words of indigenous origin. Hawaiian and other Polynesian languages, like English, have increased their phoneme inventories through the borrowing of foreign words.

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TABLE 63

Some English Ambiguities Not Existent in Hawaiian

1. WE ARE IN CHARGE OF HANDLING THE MONEY (announced at a meeting)

Ma kāua e mālama i ke kālā. we = you (one) and I
Ma kakou " " " " " we = you (several) and I
Ma maua " " " " " we = he and I
Ma makou " " " " " we = they and I

2. WHAT IS YOUR NUMBER? (asked by a telephone operator)

He aha kou helu? your = the one you are calling from
" " kau helu? your = the one you are calling

3. I KILLED HIM (confessed in court)

Ua pepehi au iā ia. kill = act with intent
Ua make 'o ia ia'u kill = simply a consequence, as in a car accident

4. PLEASE BRING ME THAT DOCUMENT (asked of a secretary)

E lawe mai i kēna palapala. that = the one close to you
" " " " kela " that = the one far from you
" " " " ia " that = the one that we discussed previously

TABLE 64

Some Words Distinguished by Vowel Length and/or Presence of the 'Okina

hua	fruit	a'a	fruit
hu'a	foam	'a'a	dare
hūā	envy	'a'ā	type of lava
		'ā'ā	panic-stricken
kau	suspend	koa	warrior
ka'u	my	ko'a	coral
kāu	your	kōā	space
		kō'ā	arid

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NATIVE HAWAIIAN CULTURE

NOTES

1/ I [Larry Kimura] would like to acknowledge the contributions of Dr. William H. Wilson, Assistant Professor of Hawaiian, University of Hawai'i at Hilo, to this paper. He and I assembled this paper after I was approached by the Office of Hawaiian Affairs to produce something for the Native Hawaiians Study Commission. We both regret that we did not have the time to make a more thorough contribution ("*He wahi ma'ū nō na'e kēia*"). We are grateful to the Office of Hawaiian Affairs for their interest in seeing that Hawaiian language concerns be addressed in some fashion by the Commission.

2/ *Haole* originally meant any foreigner, and is clearly an old precontact word, since it occurs in old chants. Marquesan has a cognate, *Hao'e*, with a similar meaning. Captain Cook and even early Chinese visitors were termed *haole*. With the preponderance of foreigners of European descent, *haole* came to mean individuals of European cultures, and new terms came to be applied to the Chinese and other non-Western ethnic groups. As greater distinctions came to be made in European groups, *haole* was applied more and more to Americans, including American Blacks, termed *haole 'ele'ele*, "black *haole*." Today, *haole* is used in both Hawaiian and local English to refer to the mainstream American ethnic group and culture alone. It is not uncommon for local people to make statements like, "He isn't a *haole*, he's German" (or Italian, or English, etc.) in describing a person from Europe or an American citizen with a strong ethnic background. Similarly, it is not uncommon for persons who are not of purely WASP [white, Anglo-Saxon, Protestant] background to be referred to as *haole* because of their cultural and linguistic background (Standard American English). Although some *haole* people new to Hawai'i immediately jump to the conclusion that *haole* is a derogatory term, it is not, and is used by *haole* raised in Hawai'i to describe themselves. English alternatives (white, Caucasian, and American) are all either too broad or too narrow. White is used for people who do not go to the beach; Caucasian includes local Portuguese and Europeans who differ culturally from the *haole* group; and American is used to refer to citizenship. The quoted passage is from Abraham Fornander, *An Account of the Polynesian Race: Its Origins and Migrations* (Rutland, Vermont and Tokyo: Charles E. Tuttle Company, 1969), p. 285.

3/ Note, for example that the outline given in the Draft Report of the Native Hawaiians Study Commission on language (p. 130) erroneously states that Hawaiian, Tahitian, Samoan, and Māori are dialects of one language called Proto Polynesian. This is equivalent to saying that English, German, Russian, and French are dialects of one language called Proto Indo-European. Although English speakers may recognize related words in European languages, they are not mutually intelligible dialects of the same language. Furthermore, Proto Indo-European, the ancestor of these European languages and many of those of India, ceased to be a unified single language in the far distant past. The same applied to Polynesian languages and Proto Polynesian.

4/ Fornander, pp. 67-68.

5/ It is a common claim of individuals who do not speak the Hawaiian language (and who are unfamiliar with Hawaiian as it is spoken today) that the pronunciation of the language was radically changed when it was committed to writing. This is not true. The language has continued to be pronounced in the same regional ways up to today, with any reduction in certain regional pronunciation habits due to the movement of people between islands, rather than the effect of the writing system. For speakers of Hawaiian in the nineteenth century who did not speak English, there was no way for them to know the symbolic value of the letters in English and, furthermore, people are usually not aware of the different pronunciations that they give phonemes (or letters in writing) in any language. An example from English is the phoneme *t*, which has variable pronunciations between dialects and even between different positions in words in the same dialect. In many North American dialects of English, *t* is pronounced like a *d* or Japanese *r* between vowels, e.g., *writer* (ride^{r}); as a glottal stop before a vowel followed by *n*, e.g., *button* (bə'n); and as a simple *t* (with slight aspiration) at the beginning of a word, e.g., *toad* (t^{h}o^{a}d). British and (local Hawai'i) English speakers have different patterns for pronouncing *t* and most speakers of the language do not notice their own pronunciations of the phoneme *t*. Similarly, it is often easier to imitate a dialect that is different from one's own than to tell exactly how it is different.

Just like English speakers, Hawaiian speakers are not usually aware of how they pronounce each letter in the written language, and regional pronunciations have continued.

For English speakers to assume that the form of the letters in the written Hawaiian alphabet would affect the native speakers' pronunciation of Hawaiian is as silly as expecting the same thing to have occurred in English where the values given to many letters are different from the usual usage in other European languages; e.g., *a* as in *cat*, *e* as in *beet* and *late*, etc.

6/ The lyrics to English songs and even English rhyming schemes appear very dull to traditional Hawaiian ears because they are so predictable and often overly repetitive. The most bothersome thing is the way in which English songs lay bare for any old stranger to hear and comment on the composer's (and honoree's) "undying love" (popular songs), "sexual arousal" (rock songs), "public love of Jesus" (gospel songs), etc.

7/ Lest one think that Hawaiian culture is the only one in which a fundamental concept can be applied to extremes, it should be pointed out that similar situations exist in American culture. The American concept of the power of *law* (that is, sentences of words set down by agreed-upon procedures) is very strong. If, for example, a confessed mass murderer is able to find even the tiniest loophole in the written law intended to punish his crime, he can go free even if he openly declares his intention to do more killings. Similarly, a law that required death for stealing a horse could theoretically result in the execution of someone who stole a horse in order to save someone else's life.

In Hawaiian culture, the extremes that resulted from full application of certain concepts (e.g., the elevation of the group's lineage through impressive *kapu* applied to the group's senior line) were tempered by the concept of *aloha* that allowed *ali'i* to let violations pass. This occurred even during the late period of the monarchy when custom required the death of a child defiling an *ali'i* with urine unless the child belonged to the *ali'i*. A story is told of a turn of the century *ali'i* holding a child while visiting a country area and the child urinating on her. The immediate reaction of the *ali'i* was to claim the child as her own and then give it back to the parent "to raise for her" with a special commemorative name from the visit.

8/ An example of confusion between the Western concept of etymology and the Hawaiian concept of word power can be seen in the two volume set of *Nānā I Ke Kumu*, one of the most important Hawaiian cultural resources in English, but edited with some English-speaking preconceptions. The author, the venerable and strongly traditional Mary K. Pūku'i, applies the concept of word power to each term described in the volumes. This is firmly part of the Hawaiian tradition and is used beautifully to draw attention to different aspects of various Hawaiian practices. For example, the word *'ohana* (family) is related by Pūku'i to the somewhat similar sounding *'ōhā* (side shoots of the taro). This she poetically develops into a beautiful expression of word power stressing the genealogical links of Hawaiian nuclear and extended families and the connection with Hāloalaukapalili, a taro plant who was the older brother of the first Hawaiian in traditional genealogies. This explanation is a tribute to the poetic genius of Pūku'i and not an etymology, as it is treated by the editor, or even a poetic image that has been recorded from other traditional Hawaiians. By presenting Pūku'i's use of word power in such a way as to suggest that it is the same as etymology in the Western sense, these influential volumes actually stifle the creative use of word power in Hawaiian culture. Thus, a native speaker of Hawaiian who wanted to use the word *'ohana* to strengthen the concept of working together with *hana* (work) could be subject to criticism for not knowing the "true" origin of the word *'ohana* as shown in *Nānā I Ke Kumu*; this certainly not being the intention of the author.

Another unfortunate aspect of the editing in *Nānā I Ke Kumu* is the spelling of the Hawaiian words. Rather than follow the spelling used in the Hawaiian Dictionary that Pūku'i herself authored, the editor haphazardly spelled Hawaiian words, possibly because the spelling of words used together by Puku'i within the Hawaiian concept of word power differed subtly from each other, as in fact they do in pronunciation, e.g., *'ohana* and *'ōhā*. The unfortunate result of the sloppy spelling is that those who do not know the Hawaiian language well will try to pronounce words as they are written in the books, thus again weakening the Hawaiian language and culture.

There are numerous other cases especially involving place names, in which a Hawaiian speaker using the concept of word power has been interpreted as giving an etymological derivation, or worse yet an actual "correct" pronunciation of the name. An example is the pronunciation of the island Kaua'i in normal Hawaiian conversation by all native speakers of the language. It has been claimed as "correctly" pronounced Kau'ai (related to the word *'ai*, "food") or Kau'ā'ī (related to the word *'ā'ī*, "neck") by individuals who assumed that a Hawaiian speaker making a point about the island using word power actually meant that these were pronunciations that had been used for generations by Hawaiian speakers.

9/ Tape of radio program "Ka Leo Hawai'i," Catalog no. 24.65A, University of Hawaii, Manoa, Language Laboratory. [Mr. Kimura also submitted a tape recording and transcripts of Hawaiian language and interviews. The transcripts appear in the Appendix of this Report.]

10/ In Hawaiian you do not speak of coming from a place, but belonging to it, much as you belong to a family. The same word no (belong to) used to mean one is from a place is also used to say one "owns" land, as illustrated below:

No Hanalei 'o Kaleiheana.
(Kaleiheana is from Hanalei.)

belongs to - Hanalei - name
marker - Kaleiheana

No Kaleiheana 'o Hanalei.
(Kaleiheana "owns" Hanalei.)

belongs to - Kaleiheana - name
marker - Hanalei

The word no is technically a preposition in Hawaiian and there is no real word for "own." The word no is also one of a pair of prepositions, na being the other. Both these prepositions translate as "belonging to" in English. The preposition na is used for things that are more like disposable belongings such as tools, bowls, food, and even spouses. The preposition no is used for more intimate things that one cannot dispose of such as parts of one's body, one's name, one's parents, and things that envelope one like clothing. The contrast between the use of the two possessive prepositions no and na is part of a contrast between O-class or intimate and inalienable possessive terms and A-class or dominated alienable possessed terms. Then, the grammar of the language supports the contention held by some that ownership of land similar to ownership of cattle in the Western sense is not a Hawaiian concept and is foreign to Hawaiian speakers. Conversely, however, the concept of land as inalienable, enveloping, and, even as kin, is foreign to American thinking.

11/ Ke Aloha 'Āina (March 18, 1899): 2.

12/ Hawaiian tradition requires that one release one's attachment to a person who has died by urging him to pass on to join with others in the next world. One shows one's attachment, however, in recalling before the body shared experiences, joys, and sorrows, and even by chiding the person for leaving when so much remains to be done and enjoyed.

13/ Produced by the Bishop Museum, 1981.

14/ Almost all Hawaiians profess Christianity today and there is a strong Christian tradition in Hawai'i. This is not to say that there have not continued to be individuals who have rejected Christianity in favor of traditional Hawaiian religion, from the time of the arrival of the missionaries until today. The Hawaiian Christian tradition, however, coexists and has been blended with traditional Hawaiian beliefs, much like Buddhism and Shintoism are blended in Japan. Christianity and traditional Hawaiian beliefs can coexist quite well because traditionally Hawaiians recognize the spiritual world to consist of beings of human-like natures connected to man and nature by genealogical links. The Christian deity, however, is not genealogically linked to mankind in the Christian tradition, but is representative of ultimate perfection. Traditional Hawaiian spirituality then fits into a Christian Hawaiian life, something like saints, angels, and deceased family members in heaven do in the European version of Christianity. (European versions of Christianity themselves take much from pre-Christian European cultural practices; the Christmas tree, Easter bunny, and Halloween are obvious examples, but more subtle influences also exist.) [See also, chapter below on "Native Hawaiian Religion."]

15/ E. S. Craighill Handy and Mary K. Puku'i, *The Polynesian Family System in Ka'u, Hawaii* (Rutland, Vermont: Charles E. Tuttle Company, 1972), p. 199.

16/ See Note 10, above.

17/ According to Hawaiian tradition, all Hawaiian *ali'i* and *maka'āinana* descend through Hāloa from Papa and Wākea who were superhuman/ supernatural beings. Hāloa was second-born after a miscarriage that developed into the taro plant, thus elevating the lineage of this staff of Hawaiian life above man himself, who derives his strength from the plant. Papa and Wākea also gave birth to the Hawaiian Islands before the birth of Hāloa, thus making the Hawaiian people genetically-related to their land and subservient to it by Hawaiian concepts of ranking by birth. Significantly, the name of the first-born island, Hawai'i, is applied to all junior members of the family, giving *ka pae'āina Hawai'i* ("the Hawai'i cluster of lands" or Hawai'i in the sense of the archipelago) and *ka po'e Hawai'i* ("the Hawai'i people" or the Hawaiians).

Voyagers mentioned in precontact traditions include Pili, Pa'ao, 'Aukelenuia'īkū and others who married into the original Hawai'i lineage. Of course, since Western and Eastern contact many other people have married into the Hawai'i lineage, but its unity has been maintained by recognition of the common lineage at the same time that pride in the other contributing lineages is expressed.

18/ The history of education in most parts of the United States starts considerably later than in Hawai'i. Many people in Hawai'i take pride in noting that Lahainaluna is the first American high school established west of the Rocky Mountains, although this is technically incorrect since Lahainaluna was not politically under the flag of the United States until 1899. It cannot even be counted geographically American because Hawai'i is not geographically part of North or South America. The early establishment of secondary education in Hawai'i speaks well for the academic interests and capabilities of Hawaiians.

19/ Albert C. Baugh, *A History of the English Language*, 2d ed. (London: Routledge and Kegan Paul, Ltd., 1957), p. 80.

20/ Some have argued that the introduction of writing harmed the Hawaiian people, but there is little evidence to support such an idea and much that contradicts it. Many Hawaiian traditions would be lost today if there was no written Hawaiian language because non-Hawaiians wrote very little about Hawaiian culture, compared to the many writings in Hawaiian on the topic by Hawaiian speakers. The introduction of writing did not affect the native sounds of Hawaiian, and Hawaiian continues to be spoken by native speakers with the *'okina* and *kahakō*, although these were not regularly written for over one hundred years. (See also note 5 on the continuation of regional pronunciations of consonants.)

The only area in which writing may have affected Hawaiian culture negatively is that it may have reduced the heavy dependency on memorization that early visitors considered remarkable. It is also recorded, however, that many Hawaiians applied the traditional attitude towards memorization to reading, and memorized whole sections of books in the form of chants. It is still bad form in Hawaiian culture to hold a script before you when chanting, in the manner of sheet music in Western culture. Therefore, the tradition of using one's memory is still alive today even though writing exists as a means for preserving old chants. The greatest stumbling block to exercising the memory in reciting Hawaiian chants today is not writing, but the inability of chanters to speak Hawaiian.

21/ Mentally, long vowels appear to be actually two adjacent short vowels; e.g., ā is a written representation of what is mentally aa. We have evidence for the mental reality of double vowels in the occurrence of long vowels when a word with an initial short vowel is doubled; e.g., awa, "harbor," awāwa, "valley." Hawaiians themselves writing in the nineteenth century sometimes wrote awāwa as awaawa rather than awawa, as was standard missionary practice. The writing of awawa as awaawa, however, can lead to confusion with the missionary spelling of 'awa'awa (sour), because the missionary orthography does not indicate the 'okina.

22/ The use of the apostrophe to represent an 'okina appears to have grown out of a mistaken etymology in the Bible. In the Bible the elision of an a is indicated by an apostrophe; e.g., e ola ai (by which one is saved) is often written e ola'i in the Bible to indicate a pronunciation e olai in which one a has been elided. First-person singular possessive words like na'u (for me) were always written with an apostrophe in the Bible, apparently based on an idea that they represent an elision (i.e., na, "for," plus au, "I, me," gives na'u). The spelling of these common words with an apostrophe became fixed in Hawaiian speakers' minds and since the apostrophe was located in a place where an 'okina was pronounced in actual speech, the apostrophe came to be associated with the 'okina. As time went by, Hawaiian speakers came to use the apostrophe more and more to represent the 'okina and less and less to represent the predictable elision of a before another vowel.

23/ A lax attitude toward the spelling of Hawaiian words is commonly found among English speakers in Hawai'i and even among Hawaiian speakers who have attended only English medium schools. English speakers often brush aside criticism of their sloppy treatment of Hawaiian spelling in comparison with their insistence on high standards in English spelling with a remark that Hawaiian is an oral language and not a written one like English. This shows ignorance of both the histories of Hawaiian and English. Hawaiian speakers have a history of one of the world's highest literacy rates. English itself has a history of missionary introduction of the Latin alphabet to the British Isles. It is interesting to note that one of the most remote and least-Western-influenced part of Polynesia, the Kingdom of Tonga, is the area in Polynesia with the most careful spellers of an indigenous language. All signs, personal names, and reading material in Tonga is printed with the kahakō and 'okina and school children use them consistently, properly, and as easily as any other part of the writing system, just as they are pronounced in the spoken language.

The way a person spells a language indicates his respect for it. Evidently Tongan respect their language more than many people visiting or living in Hawai'i respect Hawaiian.

24/ Among the missionaries in Hawai'i, Reverend Lyons was one who did become very close to the Hawaiian people. His translations of hymns into Hawaiian show an adaptation of Hawaiian poetic thinking and lack the grammatical errors found in the work of some of the other missionaries. His defense of the Hawaiian language is a tribute to his concern for the Hawaiian people and proof that there were some of the missionary group who were true to their higher ideals.

25/ The concept of sending students to different countries was especially apropos for a country such as Hawai'i with its geographic and cultural isolations from the sources of world power. The concept might have also been effectively applied internally by the establishment of a policy of having different schools taught through the medium of different foreign languages. Such a policy would not only have produced a population with increased ability to function within the international sphere, but would also have served to protect the position of the indigenous language, since graduates from different schools would share Hawaiian as their only common language. This policy could have been implemented in Hawai'i fairly early by encouraging the French Catholics to establish schools using French as alternatives to the American-sponsored schools. Later, when German and Japanese interests in Hawai'i became stronger, they too could have been encouraged to establish schools of this sort in the kingdom.

26/ At this point in Mr. Kimura's text, the following passage appears:

> Despite this, it is still Department of Education policy to replace Hawaiian with English for the one remaining native-speaking group of children (on Ni'ihau). The children on this island are the target of this policy which many believed was being underscored by the current head of the Department of Education when she called for the formulation of a plan to "improve" education on the island. Ni'ihau children residing on the nearby island of Kaua'i are already targets of a federally financed SLEP program that specifically aims toward the replacement of Hawaiian with English.

It is included as a footnote because there was not time to receive a response from the head of the Department of Education prior to the Commission's printing deadline.

27/ Derek Bickerton and Carol Odo, *General Phonology and Pidgin Syntax--Volume I of Three Volumes of Change and Variation in Hawaiian English*, Final Report on National Science Foundation Grant No. GS-39748, Typescript (Honolulu: Social Sciences and Linguistics Institute, University of Hawaii, 1976). See, also, Derek Bickerton and William Wilson, "Pidgin Hawaiian," in *Pidgin and Creole Languages: Essays in Memory of John E. Reinecke*, ed. by Glenn Gilbert (in press).

28/ Hawaiian has not been the only target of language extermination in Hawai'i. There are no communities anywhere in Hawai'i outside Ni'ihau where children born in the islands grow up speaking a language other than some form of English as their strongest and primary tongue. This includes the native languages of such large immigrant groups as the

Japanese, Chinese, and Portuguese. Speakers of these other languages have the right, however, to return to their ancestral homes to cultivate their languages, a right not available to Hawaiians. The indigenous nature of Hawaiian has always been clear to ethnic groups other than the English speakers in Hawai'i, and non-Hawaiians have a history of supporting and learning Hawaiian, which is one reason for the relative strength of the language given the trying conditions it has had to endure.

29/ Anglo-Saxon, a language of complicated case endings and verb paradigms, lost these complications and much of its traditional vocabulary with subjugation of the English people by the Norman French in 1066. The invading French used their language in all areas of prestige, leaving Anglo-Saxon a despised language of the lower classes. Anglo-Saxon aesthetic culture did not fare well under the French and the weakening of the aesthetic culture resulted in a further lack of support for the base culture language. When the French influence finally ended and the English resumed control of prestige positions, the language that remained was a pidgin-like mixture of simplified Anglo-Saxon structure with an extensive French-derived vocabulary, changed in pronunciation from that used by the French. This once humble and despised broken language, however, has become quite respectable today as the English language and is used as a means of international communication. Hawai'i's pidgin is similar to English in that it derives from a simplified Hawaiian with a massive dose of foreign vocabulary and its origins lie in foreign domination of the Hawaiian people.

30/ A section on strengthening the Hawaiian language, also sent by OHA and written by Larry Kimura, appears in the Appendix of this Report, along with information on legal aspects, transcriptions of Hawaiian interviews, and testimony presented before the Native Hawaiians Study Commission. These documents were sent to the Commission by OHA after the incorporation of the Mr. Kimura's "Language" paper into the Commission's Final Report.

31/ *National Historic Preservation Act*, as amended, Sec. 101.(a)(1)(A).

32/ State of Hawaii, Department of Land and Natural Resources, *State Historic Preservation Plan*, *Technical Reference Document* (Honolulu: Department of Land and Natural Resources, October 9, 1981), pp. I-10-12.

33/ *Ibid*., pp. II-35-36.

34/ *Ibid*., p. II-11.

35/ Public Inquiries for copies of the National Register of Historic Places, or for information on the National Register, should be directed to:

Judy Bullock
National Register of Historic
Places
440 G St., N.W.
Room 115
Washington, D.C. 20240

36/ *Federal Register*, Vol. 46, No. 220 (November 16, 1981), p. 56189.

37/ *State Historic Preservation Plan*, pp. A-38-39.

38/ *Ibid*., p. II-43.

39/ *Ibid*., pp. II-57-58.

40/ See comments from Kenneth C. "Keneke" Chan and John J. Hall.

41/ *Glenn K. Nanod,* Testimony Presented to the Native Hawaiians Study Commission, Kaunakakai, Molokai (January 10, 1982).

42/ Comment from Kenneth C. "Keneke" Chan, p. 2. Emphasis in original.

43/ Glenn K. Nanod, Testimony, pp. 2-3.

44/ For a further discussion of Kahoolawe, see paper submitted to the Commission by the Office of Hawaiian Affairs entitled, "The Demise of the Hawaiian Kingdom: Its Psycho-Cultural Impact and Moral Legacy," written by Ramon Lopez-Reyes (February 1983), pages 17-19. This paper is reproduced in full in the Appendix of this Report.

Native Hawaiian Religion

A. APPROACH

In order to faithfully represent most modern-day native Hawaiians and their needs and concerns in this important area of native culture, this report will clarify with as much brevity as possible the aspirations of the Hawaiian people to effect respect for their dignity as native Hawaiians, Hawaiian Americans, and as thoughtful citizens of the world. It will concentrate on several main issues:

1) The ancient Hawaiian concept of the soul of man in relation to ancestral or controlling spiritual beings in nature, or beyond nature, during human life and in a spiritual afterlife.

2) The relationship between the community worship of the chiefs and priests as a ruling class, and family ('ohana) worship in ancient pre-contact (1778-1779) and post-conversion (1820-) times, continuing into fragmented private family religious observances today in association with introduced forms of worship, reflecting positive or negative identity changes.

3) Post-conversion Hawaiian conflict in native identity or crisis in self and group esteem, and its opposite, complete conversion without trauma to other world religions or philosophies; Hawaiian resiliency in adjusted personality and identity change.

4) The need felt by some emerging native Hawaiian groups to recover self-esteem as Hawaiians by pledging faith in ancient religious beliefs and customs beneficial to group identity through participation in a live, revitalized religious setting, requiring recovery of temple and other shrine sites designated as sacred, with the privilege or right to reenact pertinent rituals in ceremonies conducive to harmonious and inspired religious expression.

5) Summary of needs and concerns about Hawaiian religion with recommendations for improving religious expression as desired in the present multi-ethnic social setting.

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*/ The following chapter is a complete reproduction of the paper prepared by Rubellite K. Johnson, entitled, "Religion Section of Native Hawaiians Study Commission Report" (February 1983), written at the direction of and funded by the Office of Hawaiian Affairs. Rubellite Johnson is an Associate Professor in Hawaiian Language, Department of Indo-Pacific Languages, at the University of Hawaii, Manoa campus. Minor editorial changes have been made to conform to the Final Report's format, and the footnotes have been redesignated, for the convenience of the reader. Also, information appended to Professor Johnson's paper does not appear in the text of this chapter, but can be found in the Appendix of this Report, referenced at the appropriate places in the text. Except for these changes, Professor Johnson's paper appears as submitted by OHA and is otherwise unchanged. References used by Professor Johnson appear in the "List of References" of this Report, marked by a "[3]."

B. BASIC RELIGIOUS CONCEPTS OF HUMAN EXISTENCE IN LIFE AND AFTER DEATH

Life in Hawaiian */ thought is not restricted to human life in the concrete world felt and seen by the senses of the human body. The Hawaiian idea of the reality of life in the world supersedes the world that is seen and experienced by the material body, and enters into the life of the spirit that is beyond the physical senses of the body. This reality is perceived through the ability of the mind to either envision through the mind asleep or awake or to sense through other psychologically-conditioned awareness (through premonition, for example) that the total life of man involves the ability of the spirit through all of material life to move back and forth between the world of the live physical senses and the world of the "extra" spiritual senses. Thus, the Hawaiian mind places greater reality on the life of the human individual in the spiritual realm, the present material life being regarded as ground for discipline of the spirit in preparation for the afterlife. Therefore, a human being, whether male or female, has spiritual origin, material birth, and spiritual eternity of complete unceasing existence--a personality composed of several layers of embodiment. These are:

1) The living material, corporeal body (kino) having life (ola) of the body;

2) The separable, second soul (kino wailua) that moves during sleep causing dreams (moe 'uhane), with the consciousness inert (the kino wailua may also become "disembodied;" for example, the experience by some people of so-called "astral projection," when the personality wholly leaves the body and moves about with the consciousness intact, the corporeal body lies inert but alive);

3) The spirit that is the dormant body, which at death survives the body, that is, the 'uhane. (The living human being as a foetus is not considered a "live" person until birth when the kino breathes (hanu) the "air" (ea) of the god(s), so that the material body quickens with the "spirit" (ea) of the universe in the "breath" (hā) of the human being as it ingests the atmosphere (ea) of "god." Abortion of the non-breathing foetus is thus not considered deprivation of life inasmuch as "life" (ea) is a condition of the "spirit" (ea) and requires the ability to breathe (hā) in the god's breath. To be a full, living personality there must be corporeal life (ola), spiritual life ('uhane), the soul personality (kino wailua), and breath (hā). Survival of the 'uhane, however, is not dependent on breath (hā) nor the corporeal body (kino ola); it is intact and continues the existence of the person in another life.)

No Hawaiian has experienced how the spirit ('uhane) survives, inasmuch as all reports of a second life are the

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*/ Professor Johnson uses the term "Hawaiian" to signify all Hawaiians of native descent, similar to the term "native Hawaiian," as used in this Report. (See definition above, page 37.)

results of experiences by the astral travel (wailua) of Hawaiian persons. Such experiences as related describe extraterrestrial journeys through known parts of the galaxy in the form of light, while the soul escapes from the tear ducts and returns through the toe. Other experiences of Hawaiian astral travels (wailua) are walks through familiar places, watching people in their daily doings, and then returning to the body; or, the astral travel (wailua) moves upward to a place of great light, only to find it is not ready to be allowed entry and must go back to the corporeal body (kino) to live out the corporeal existence. Persons who have had such experiences are often described by relatives as living a daily life of prayer and having an expectation of dying with no fear of passage from human life to death. Stories told by persons having had these experiences usually fortify strong Hawaiian faith in the reality of an afterlife and tend to also assist in conversion to both Western and Eastern forms of world religion without any loss of faith in the older religious beliefs. Where there has been no experience of this kind, there is conversion accompanied usually by rejection of the older religious beliefs and total absorption of the family into the adopted norms.

One must regard these beliefs and experiences in the life of the soul as a social condition that allowed the Hawaiian a margin of belief in similar ideas voiced in other sacred works and foreign forms of religion that were not inconsistent with native Hawaiian beliefs. Thus, prophecy based on visions and dreams is accepted practice, whether found in native Hawaiian or foreign religions, and dream interpretation in the Bible as practiced by the prophet Daniel on the dream of Nebuchadnezzar is given wide credence. Hawaiian attitudes of belief in dream interpretation, however, vary between dreams or visions considered "prophetic" and those that are brushed aside as rubbish. Dreams with prophetic value contain symbols of wide application in meaning among Hawaiians, and visions that are seen when the conscious mind is fully alert receive the most credence. In the same context, experiences of an extrasensory nature perceived by more than one individual at the same time are given more credence than the same perceived by only one individual. Dreams visualized while the disembodiment (kino wailua) is moving around but the conscious mind is asleep are therefore called moe 'uhane (spirit sleep). Visions beheld while fully alert are called aka-kū (shadow-standing, or shadow substance).

For each Hawaiian individual a lifetime of collected experiences of this nature, whether by himself or by other family members, continues a record of the spiritual life as witnessed psychologically. Hawaiians do not doubt others' experience but are also equipped to recognize when these states are injurious to mental health and to separate true prophetic visions or dreams from hallucinations and defective, abnormal perceptions. The criteria of evaluation is difficult to determine and needs research, study, and clarification. Hawaiians are sensitive, however, to being called "superstitious" so far as these areas of belief are concerned, and denials of acceptance when these experiences are offered bring either deep-seated resentment or open anger. This may be one of the pitfalls of religion, that it requires belief and acceptance without proof or demonstrability, and the Hawaiians in being converted to other religions have never required proof or demanded demonstration of the efficacy, for example, of Christian beliefs. As with other converts the world over, the Hawaiian people take the resurrection of Christ as demonstrable by the written record of the gospel and effect their belief strictly by faith. The Hawaiian Christian is therefore more primarily affiliated with his church, and so far as his native Hawaiian beliefs are concerned, simply keeps them separate as it suits him, or as in other cases, will work them into home rituals combining Christian and Hawaiian forms of worship with no fear that they may be violating either tradition.

Animism and Animatism as Primary Facets of Hawaiian Religious Belief

Animism is the belief in spirits, and as we have demonstrated, Hawaiian religion rests upon a basic belief in spirits and the spirit world. These spirits ('uhane) are also the gods (akua) in the ranking hierarchy of guardian gods ('aumakua) who protect the family from harm and who answer all kinds of trouble calls from their family ('ohana) patrons. Thus a patron deity is an akua when called upon by a group of workers, but when turned to by the family for help is called an 'aumakua. Both the akua as "gods" and the 'aumakua as "ancestral guardian gods" are 'uhane (spirits).

We can classify these spirit gods as ancestral spirits ('aumakua) ranging from the recent deified departed dead in the family, or the ancestral spirit gods (akua) who have never known mortal existence except in instances when they occupy human bodies for visits to earth and who are true spirits, or those who are god-like in that they have never experienced human death. These immortal spirits are those, then, with the greatest supernatural power (mana), and as they are called upon through prayer and ritual, they impart their mana to human beings. Men receive more of this power than women do, and chiefs more than commoners.

Mana is the "animating" force in all life forms and in all forms of universal energy. Since the source of this power is from the spiritual to the material world, it follows that the material world flows from the spiritual into concrete being, and man is the conduit of its intelligent, cognitive thought, whereby understanding or knowledge of its existence perseveres through corporeal life and back again into spiritual life. Thus, Hawaiian religion evinces a dependency between belief in spiritual entity ('uhane) residing in man and ancestral gods ('akua, 'aumakua), in man as living god (kupua or "demigod"), and belief in the psycho-dynamic force of life-energy and power existing in a direct flow to all of creation; that is, animism and animatism: man's life and all life in the creation being but a manifestation of the animating force of spiritual energy and power.

Inasmuch as nature is, however, both animate and inanimate, it can be asked how inanimate nature demonstrates, in its dormancy, spiritual energy, and how Hawaiian belief in mana as residual, in all of creation's forms, handles the resolution between animation and inanimation? It is simple. "Life," in Hawaiian thought, is not restricted to animated, corporeal life (ola), because "life" as emerging invigoration is spirit (ea) in both inanimate and animate forms. Mana is either dormant and residual in the inanimate forms of life or energy (if we see mana as "potential" energy) and also dynamic and active in the animate forms of life (or "kinetic" energy). Light is not living (ola), but it is a manifestation of the great akua god Kāne-ka-'onohi-o-ka-lā (Kāne-eyeball-of-the-sun). So light is masculine, and an expression of mana as it emanates from the sunlight to man on earth for his use. Light as the inner light of intelligence in man is thus "daylight intestines" or that gut-feeling reaction that prompts enlightenment (na'auao) and the mana of enlightenment in man's wisdom and intelligent use of power. In this context, therefore, mana is inherited by mankind from the gods, as both are spiritual ('uhane) and therefore in constant contact between birth and death; that is, mana is transferable.

In being thus transferable, it can be either increased by function or decreased by dysfunction, so that mana has quantity in indefinite amount of flow, and if it is not maintained it is diminished. Therefore, mana can also be acquired by intelligent use and need not be inherited, necessarily, in a direct conduit between gods (akua) and men as chiefs (ali'i). The common man (kanaka maoli) or woman (wahine) is born with intelligence (akamai) and with intelligent use of akamai and na'auao (wisdom) acquires skill (no'eau), thus increasing mana in possessing all three: akamai, na'auao and no'eau. Thus, inherited mana as possessed by chiefs in the kupua (demigod) role as gods incarnate, through which they rank higher than the kanaka maoli, does not guarantee superior rank as automatic privilege in the afterlife. Mana as power and as a "good" in itself, as possessed by gods or by men, is a force that does not inhibit the free will of mankind to produce either "good" (maika'i) or "evil" ('ino), as evil doing takes as much intelligence and power as doing good requires.

So, it also follows that in Hawaiian ethics mana in productive or destructive use by man in daily existence does not automatically will him into good acts. Therefore, it is not mana that places the spirit of man into favorable circumstances in the afterlife by virtue of rank. No spirit ('uhane) of man or woman ascends into the spiritual life guaranteed into eternity except by pono, which means duty, responsibility, justice, and righteousness. Without pono no good life for mankind either on earth or beyond earth develops. Thus, in ancient Hawaiian society, history records the lives of good and bad kings, of good and bad spirits, in order to demonstrate what pono is and how it is achieved through the intelligent use of mana in all positive attributes of the total activity of man. Thus, mana can be diminished by negative transference, and in order to be vital must be maintained and kept moving positively through every activity of the economic, political, social, aesthetic, and religious life of ancient Hawaii.

The discussion can continue here indefinitely into volumes of analysis, but suffice it here to define mana as the three-fold manifestation of power with its regional source in the spiritual world, or the world of neither birth nor death, and its perceptive function in the visible, material world as:

1) The source mana, that is, supernatural power of sacred spiritual beings (akua, 'aumakua, 'uhane), as seen abstractly in their manifold inanimate forms of natural energy (potential, kinetic), or concretely in their manifold animate forms of corporeal life.

2) The mana of human beings, inherited or acquired, by either direct descent from the gods, as chiefs (ali'i), or by intelligent, wise, or just and productive use for the good life (pono).

3) The residual *mana* of sacred objects wrought by human intelligence as used in everyday economic life and in sacred shrine and temple rituals.

This leads the discussion of Hawaiian religion from this point into two directions: (1) toward an understanding of the forms of the gods (*akua*, *'aumakua*) as manifestations of *mana* in life's forms, inanimate and animate, or as their *kinolau*, that is, "many forms;" and (2) toward an understanding of the use of political power as the *mana*, or authority of chiefs to effect maintenance of this *mana* so as to keep it increasing for mankind's use and to prevent its decreasing from his grasp. This leads, then, ultimately to an understanding of how *mana* is retained as a result of the discreet use of *kānawāi*, secular law, and *kapu*, sacred law, to inhibit *negative transference* or loss of available or necessary *mana* for retention of human *mana* as political or economic power.

C. RELATIONSHIP BETWEEN COMMUNITY WORSHIP OF THE RULING CLASS AND THE PRACTICE OF FAMILY WORSHIP

This section will explore the relationship between the community worship of the chiefs and priests as a ruling class, and the practice of family (*'ohana*) worship in ancient pre-contact times (that is, before Captain Cook, 1778-1779), and post-contact times to post-conversion times (1820, arrival of American missionaries from New England), with fragmented continuation of aboriginal religious practices in family worship patterns today associated with introduced forms of worship. In order to handle this topic, it will be necessary to divide the discussion that follows into three sub-topics:

1) Variability in observed patterns of worship between classes, that is, as between chiefs and priests as one group, and commoners as another, or between men on one hand and women on another, or between followers or "true believers" on one hand, and resisters or "deviants" on another;

2) The overthrow of the *kapu* system in 1819 effecting defeat of the community worship of the chiefs and priests, without destruction of the active family practice of *'ohana* worship persisting in family customs in the present society; and

3) The unifying effect of the *kinolau* concept of *akua* and *'aumakua* identification in symbolic forms, abstract or concrete, linking community worship of the chiefs and priests on one hand to the family *'ohana* religion on the other.

This discussion will then lead to the next section, which explores changes in the Hawaiian psyche, or duplicity of religious practice with or without harmful effects to personality and identity of the Hawaiian individual as a member of native Hawaiian or Hawaiian American society; and the duality of allegiance to traditional Hawaiian and to American (Christian) religion.

Variability in Worship Patterns

In the earliest account written by native Hawaiian scholars called the *Mo'olelo Hawaii*, for which principal authorship is often credited to David Malo (not exempting however other

Lahainaluna scholars such as Samuel M. Kamakau, John Papa I'i, Boaz Mahune, and Timothy Keaweiwi) the following account is given:

> The manner of worship of the kings and chiefs was different from that of the common people. When the commoners performed religious services they uttered their prayers themselves, without the assistance of a priest or of a kahu-akua. But when the king or an ali'i worshipped, the priest or the keeper of the idol uttered the prayers, while the ali'i only moved his lips and did not utter the prayers to their gods. 1/

It is expedient here to recognize that "assistance of a priest or a kahu-akua" is the key phrase underscoring the role of the organized priesthood in the formalized "community" organization of "national" worship by chiefs. While worship of the gods by commoners was directed toward the identical akua 'aumakua, the role of the priests (if they assisted the commoners in simpler rites on family shrines at all) was outside their official governmental capacity. The political aspect of the chiefs and priests' religion can be seen in that the community system of religion sustained the authority of the chief as an authority granted by the akua in lineal descent from the akua, with the chief as a divine embodiment of the akua in the world.

Thus, there were two systems of religion in ancient Hawaii: one set in which commoners and chiefs worshipped the gods and where the rules of order were maintained by the priestly orders of Kū and Lono; another in which men and women worshipped the same gods as family guardians in everyday ceremonies, or as patron deities by occupational groups. The society did not exempt the men from the established community worship of the great akua gods on the sacrificial temple (luakini), but it exempted the women. Chiefesses worshipped at the Hale o Papa temple (heiau) when services were held at the heiau dedicated to Kū (one of the major gods). All women in the society observed the tabus on silence, eating, and cohabitation when worship periods were in effect on the major temples.

The year was organized into the major ritual seasons by the Lono priesthood who kept the calendar computations accurate by marking the solstices, equinoxes, turning of the Milky Way during the months of the year, and by adjusting the ecliptic to the sidereal cycle of the Pleiades from one November sighting in the east, at first rise after the first new moon, to another November. Heiau attendance by males in the community was compelled for eight months of the year, divided into seventy-two days per year, nine per month. The required attendance was relaxed during the four-month makahiki season of Lono-i-ka-makahiki, when taxes were collected and the first-fruits ceremonies enacted in honor of the god Lono-i-ka-makahiki. This makahiki season took place in the first quarter of the Hawaiian year, between the autumn equinox and the winter solstice, ending when the Pleiades came to zenith culmination. Exactly ninety days, or three Hawaiian months, could be computed between the first sighting of the Pleiades in November and the end of the quarter called ke au o Makali'i, the quarter season of the Pleiades year. These ninety days equalled one-quarter of the ecliptic, or the passage of the sun from one equinox to one solstice.

All of this was coordinated into a lunar calendar so that the nine tabu days called the lā kapu kauila were spaced out through the moon's synodic cycle of 29.5 nights per month (mahina). During the waxing of the moon, the *kauila* days were assigned first to *Kū*; at the rounding of the moon to *Hua*; and at the waning of the moon to *Kanaloa*, *Kāne*, and *Lono*, in that order.

Services to *Kū* on the human sacrifice or "war" *heiau* were confined to the period between the spring equinox and the summer solstice, between April and June. Human sacrifices were restricted to *luakini* ceremonies on the *heiau po'okanaka* (human sacrifice) or *heiau kaua* (war temple), dedicated to *Kū* as patron deity of warrior chiefs. The quantity of human sacrifices varies in accounts from three to as many as twenty-six for building or consecrating the *luakini* *po'okanaka*. Since criminals who broke the *kapu akua* supplied the sacrificial numbers, and since these ceremonies only took place when the community went to war or when the ruling chief sickened and died from sorcery, the impression is allowed that people were not being carried off to the execution altars every year, but it would seem that the chiefs and priests kept note of who in the community skipped the services or disturbed the peace. This does not rule out the likelihood that chiefs could revenge themselves easily upon their opposition. So, it is interesting once again to note how the society provided the escape hatch: first, in the form of the *pu'uhonua* "cities of refuge" dedicated to *Lono*, wherein criminals were granted full mercy from violations of the *kapu akua* that brought the death penalty in judgment upon them; and again in the right of any man to remove himself and his family from his *ali'i* and move out of his constituent *'ohana* to any other district or island beyond the reach of revengeful overlords. What of those, however, who knowingly stayed and accepted their lot, unless taken unawares by the priests? From several accounts (particularly that of the penitent behavior of men in Kamehameha's army who were sacrificed before the Battle of Nu'uanu in the *heiau* Papa'ena'ena on O'ahu) it would seem that compliance was consistent with religious beliefs, that proper restitution was owing to society and the *'aumakua* by willingness to admit wrongdoing and to suffer punishment in order to reach eternal existence as a living spirit, absolved finally of crime.

Overthrow of the Kapu System in 1819

Within six months after the death of Kamehameha the Great in May of 1819, the chiefesses Keopuolani and Ka'ahumanu, surviving wives of Kamehameha I, publicly ate with the young chiefs Liholiho (then Kamehameha II) and his younger brother Kauikeaouli (not yet Kamehameha III), in defiance of the *'ai kapu*, or sacred law against men and women eating together. This act of the chiefesses and young chiefs ushered in the *'ai noa*, or "free eating," that eliminated the death penalty for criminal infractions by breakers of this law through execution on the *heiau* as human sacrifices.

This was not the first breach by the *ali'i* in customary law requiring capital punishment for breaking of the *kapu akua*. Human sacrifice as the *moe-pu'u* custom, a kind of "self-immolation," was required of the chief's closest companions in life as demonstration of loyalty to a king upon his death. It placed the strain of heroism on the *ali'i* to demonstrate to their peers and to their subjects that they were not afraid to die for their lords, although practicality would demand these heroic actions from those ranks nearest the king in age or those who had seen many wars, defeats and victories, with him. If none, however, volunteered within specific allowances of time, then the *moe-pu'u* death companions were forcibly taken from the community at will. In addition, if they were not found within the allowed time, the number of moe-pu'u required also increased. The first "freeing" of these "death" laws was a request by Kamehameha I that the moe-pu'u custom not be observed when he died.

In 1819, moreover, breaking of the 'ai kapu by Keopuolani and Ka'ahumanu did not eliminate human sacrifice requirements entirely, for there were other kapu akua of capital punishment equally enforceable. What they especially achieved was freedom for women to eat with the men and to eat what the men could eat in formerly prohibited places. The Russian visitor Lisianski, writing aboard the Neva (1804-1806), mentioned that he observed that men could visit the women while they ate in the hale 'aina but did not partake of the food they ate, while women never went near the men's hale mua where they were not allowed. He also observed that men and women ate together outside the houses while they fished and farmed as husbands and wives, but never ate taro or poi from the same dish. He also observed that the house in which the women ate, or the hale 'aina by day, was the sleeping house at night (hale moe). 2/ It is known that the houses of sleeping were places where men and women came together to be with their families, that is to say, the hale moe was noa, "free," from tabu.

The sanctity of the hale mua was due to its being the shrine (unu) of the god Lono in the Ipu o Lono image. The hale mua was called a "shrine of Lono" (uno o Lono) due to the presence of the "gourd" (Ipu) in the men's eating house. The 'Ālana sacrifice, by which the men ate of offerings placed for the god in the Ipu of Lono, suspended in a net (koko), was ritually made here before eating of food. The presence of women may be considered as providing a conduit for negative transference of mana from the male gods away from male participants. The same kind of inhibition is recognized in the situating of the women's menstrual house (hale pe'a) away from the community of "normal" women and men. Men were not allowed in or near the hale pe'a, and were prohibited from cohabitation with menstruating women, as such acts reduced availability of mana.

This duality of separation in the social sphere of kapu akua is rooted in the male/female dualism of the religion that metaphysically assigned to portions of the universe either male or female identity, as in Chinese yin/yang opposition. Male/female dualism was a tenet of ancient religion defining the male sphere of action as distinct from the female. 3/

The overthrow of the kapu system by native Hawaiian society was the most significant departure, then, effecting culture change in religion and politics after contact with Europeans between 1778 and 1819. (Note that this is still within the pre-conversion period.) It was a significant alteration in attitude as belief or faith in the efficacy of mana of the great male akua gods to influence positive outcome in human spheres of power and action from a supportive spiritual source.

So-called "deviant" behavior in the pre-contact period by commoners, while the kapu system was in force, constituted capital offenses against both the akua and the community, so that chiefs and priests enforced the penalty as required by a system established in traditional custom through belief of the entire society in the akua gods. Pre-contact deviant behavior by the 'aiā (ungodly) against the kapu system is documented: "But there were people who had no god, and who worshipped nothing; these atheists were called 'aiā." 4/

These "atheists" ('aiā) in the pre-contact society are defined as "ungodly, irreligious, wicked, careless of observing taboos" and who "led others astray." 5/ They represent a recurrent, steady percentage of the population discontent with the status quo. This "radical fringe," already existing in marginal Hawaiian society before the arrival of Captain Cook, could only have increased during the time of massive annexation of territory by Kamehameha I that obliterated traditional claims of titled chiefs to their lands and gods, both of which Kamehameha attached to his domain. Disaffection with conquest is evident in reported rebellions and retaliations by rival chiefs until they, and their families too, were dispossessed or brought under the Kamehameha administration.

The increase in numbers of conquered "deviants" were being influenced as well by the mere proximity of deviant, although natural, examples of European behavior operating out of range of akua controls with no negative results as expected. Cultural deviation by the ali'i class from ordained akua authority, established in native religion by force of kapu akua, as a ripened revolt (while not military in character) became in 1819 open refutation by the chiefesses in publicly defying the efficacy of godly mana. This action by the ali'i is not to be misconstrued as violent overthrow, but rather as a reasoned movement toward liberation of both the ali'i and maka'ainana classes from restrictions on human pleasure. (Note that restrictions on sex as plural or extramarital relations were absent. Post-conversion introduction of the Mosaic code of Biblical laws on adultery became a headache for Hawaiians.)

The chiefesses, however, could not have succeeded without support of the priesthood. The priests had charge of and professional obligation toward interpretation of the law for the ali'i, and such power was not given to ruling chiefs. In a sensitive analysis of the overthrow of the kapu system as a result of "culture fatigue," anthropologist Kroeber correctly identifies High Priest Hewahewa as the real force behind the whole overthrow. 6/ What motive drove this high priest to completely dismantle his "courts of justice" (the heiau with powers over life and death) by renouncing the authority of his public office? Nothing so liberating in bringing the law itself to justice has ever been seen on earth since, paving the way for easy conversion of Hawaiians to Christianity in 1820.

Unifying Effect of the Kinolau Concept

This section discusses the unifying effect of the kinolau concept of the akua and 'aumakua (that is, multiple symbolic forms of gods) in the religious practice of the chiefs and priests on one hand, and the commoners on the other. It is expedient for discussion of the kinolau concept to return to Malo's description of the difference between the manner of worship of chiefs/priests versus commoners as a primary factor of distinction, rather than in the objects of worship, that is, the gods worshipped in common by both systems. To quote Malo:

> The names of the male deities worshipped by the Hawaiians, whether chiefs or common people, were Kū, Lono, Kāne, and Kanaloa; and the various gods worshipped by the people and the ali'i were named after them. 7/

There was and still is an inherent and consistent agreement in the symbolism of identity linking through the kinolau of the akua the "national" manner of worship, or customs carried on closer to home or in places of daily, economic occupation. A pervasive system of multiple symbolic forms (kinolau) as manifestations of the akua/'aumakua reaches into associations of multiple ancestral ties through common genealogies and, thusly, to other related 'aumakua.

For example, if someone has a dream of a man with webbed feet coming on a canoe and wearing a red malo (loincloth), that personality is Kanaka-o-Kai (Man-of-the-sea), an 'aumakua of Moloka'i families who also takes the form of a shark god. If one has a dream of a man in a red malo standing by a clear pool of fresh water, that personality is the god Kāne as giver of the wai ola "water of life" (that is, procreative male fluid, drinking water, sea water as the source of man's beginnings, human blood). As the 'aumakua Kanaka-o-kai is also Kanaka'aukai (Man-who-swims/sails by sea), persons with the name "'Aukai" are also associated with the migration hero 'Aukele-nui-aiku. Since 'Aukele married the older sister of the volcano goddess (Pele), Nā-maka-o-Kaha'i (The-eyes-of-Kaha'i), in the land of Ka-la-ke'e (Ra'iatea, Borabora, Pele's home), the name 'Aukai is related to Pele's parental ancestor, Kāne-hoa-lani. As Pele in variant genealogies is given two fathers (po'olua, "two heads"), Kū and Kāne, there are two parental lineages, but major maternal descent is from the goddess Haumea, who is called also Papa-hānau-moku (Papa-giving-birth-to-islands) and Walinu'u. Haumea (or Papa) married four gods (Kū, Kāne, Kanaloa, and Wākea). As Haumea joined with Kū, both she and Kū share the breadfruit tree as kinolau bodies. When Haumea as Papa-hānau-moku joins with Wākea, she is the mother of Ho'ohōkū-ka-lani, who in turn is mother of the taro stalk, Hāloa.

Hāloa (Long-stalk), or the lauloa species of taro, is the symbolic representation of a large extended family of chiefs and commoners descended from Papa and Wākea. Hā is the taro stalk replanted as the huli, or corm and root cutting that regrows the starchy stem; loa (long) means that the hā is enduring. Until the 'ohā forms, or the new shoot from the parent stem, the hā stalk is continually replanted as the same individual, so "long" (loa) not only in stalk (hā) but also in living "breath" (hā). A subtle understanding is found here in how Hawaiians view the character of the taro stalk, as it must come up from below water to "breathe," analogous to the human need to breathe out of water and in air (ea, "spirit"). From the joint symbolism involved comes an analogy to the extended family ('ohana). The taro corm is a kinolau of the god Kāne, and the lū'au leaves, of Lono. When the Hawaiian family sits down to dinner, and the calabash of taro poi is set before them, a rule of good manners is that no one while eating Hāloa should talk expectantly of the future, as "Hāloa says no," meaning it is rude to speak before the ancestral staple while eating one's own words, so nothing comes of prophecy.

How does knowing the kinolau bodies of the four-fold godhead help to understand the Hawaiian concept of deity in the "real" and in the "spirit" worlds? The following kinolau outlines for each of the major gods present the holistic view of akua so as to divide the animate and inanimate nature of akua into their proper spheres of control and how they themselves are governed to provide for the daily life of mankind.

1. Symbolization of god Kū:

   a. As god of forest and rain, patronized by canoe-makers and builders of the luakini (po'okanaka type) human sacrifice temples:

Kū-moku-hali'i: Ku-spreading over land.

Kū-pulupulu: Kū-of-the-undergrowth (pulupulu), fern down, used in tinder, fire-making; equated sometimes with Laka, ancestor of the menehune people; hence, with Kū-ka-ohi'a-laka, -in-the-lehua-tree, god of the hula dance, and god in the haku-ōhi'a image on the Kū heiau.

Kū-o-lono-wao: Kū-of-the-deep-forest (wao, uninhabited by human beings).

Kū-a-lana-wao, Kū-aela-na-wao: (Variant of Kū-o-lono-wao, one of the gods of the canoe).

Kū-ka-ohi'a-laka: Kū-of-the-ohi'a-laka tree (the lehua tree; see Kū-pulupulu, above).

Kū-ka-'ie'ie: Kū-of-the-wild-pandanus vine (Freycinetia scandens).

Kū-mauna: Kū-of-the-mountain.

Kū-holoholo-pali: Kū-sliding-down-steeps (God of canoe-hauling over cliffs).

Kū-pepeiao-loa/Kū-pepeiao-poko: Kū-of-long-ears/Kū-of-short-ears; gods of the pepeiao or "ears" of the canoe interior, used as handles for hauling and later for sea supports.

Kū-pa'ai-ke'e: Kū-adzing-out-the-canoe (Kū-in-the-reversible adz).

b. Kū as god of husbandry; patronized by farmers.

Kū-ka-o'o: Kū-of-the-digging-stick.

Kū-kulia: Kū-of-dry-farming.

Kū-ke-olowalu: Kū-of-wet-farming.

Kū-'ula-uka: Kū-of-the-abundance-of-uplands.

c. Kū as god of fishing; patronized by fishermen.

Kū-'ula-kai: Kū-of-the-abundance-of-the-sea; "red" things in the sea symbolized "abundance" of the sea; sacred to Kū.

d. Kū as god of war and sorcery; patronized by warriors/chiefs.

Kū-nui-akea: Kū-the-supreme-god.

Kū-ka'ili-moku: Kū-snatcher-of-land; war god of Hawaii, cared for by Liloa, handed down to 'Umi and inherited by Kamehameha from Ka-lani-opu'u; war god of the 'Umi-Kamehameha line of kings of the Mahi clan of Kohala-Hamakua district.

Kū-ke-oloewa: Kū-the-supporter, god of the Maui kings; captured by Kamehameha the Great.

Kū-ho'one'enu'u: Kū-pulling-together-the-earth; god of Pakaka temple of Oahu chiefs and their war god; captured by Kamehameha.

Kū-waha-ilo: Kū-maggot-mouth; god who received human sacrifices, symbolized as the tongue; kinolau bodies in whirlwind, earthquake, caterpillar, blood; mo'o reptile with "flashing eyes and thrusting tongue."

e. Kū as god of healing/invoked with the goddess Hina in Kū and Hina worship.

Kū symbolizes the east point of the compass. Hina, as the moon, symbolizes the west.

f. Kū as god of sorcery.

Kū-koa'e: Kū-tropic-bird; the Kū-koa'e shrine was erected by a chief for the deification into an aumakua after death; also for circumcision rites for young chiefs.

g. Kū of bird-catching; patronized by bird-snarers.

Kū-huluhulu-manu: Kū-bird-feathers; god of bird-snarers, bird-limers, and all who did featherwork.

h. Kū gods as chiefs' gods:

Kū-

Kū-maka-iki: Kū-small-eyes

Kū-maka-nui: Kū-big-eyes

Kū-makela

Kū-maka'aka'a

Kū-holoholo-kaua: Kū-run-wars

Kū-koa: Kū-warrior/courage

Kū-nui-akea: Kū-of-wide-expanse (the highest form and rank of Ku as war god)

Kū-ka'ili'moku: Kū-snatcher-of-land

Kū-waha-ilo-o-ka-puni: Kū-maggot-mouth-of-overcoming

i. Kū symbolization summary:

1) Fibrous *pulupulu* of fern, used in fire-making and for stuffing mummified corpses; *pulupulu*, as of coconut sennit, for rope and cordage to wind adz blade to handle (a form of Kū), and for lashing canoe parts and house timbers.

2) *'Ie'ie* pandanus vine, used as rope for tying the tops of the felled trees and for girdling the tree before cutting; red spathe of the flower is a phallic symbol of Kū as male god.

3) The adz, as used in sacred ceremonies on the Kū temple and for cutting wood and adzing out canoes; the primary "tool" form of Ku as used by carpenters.

4) Coconut tree as proceeding out of the head of the eel, a form of Kū, related to the caterpillar (Kumuhea, son of Kū), worm (ilo, as worm of corruption, i.e., Kū-waha-ilo; *ilo*, as sprouting shoot of the coconut), sea cucumber, eel; coconut tree provides the materials for making sennit, also provides the drinking nut, has many uses for survival on the ocean and on land.

5) Breadfruit tree, wood and flower (as the husband of Haumea, goddess in the breadfruit tree).

6) Upright stem of the ti plant (*Cordyline terminalis*); or "uprightness" (kū) of solid plant stems and hardwood trees or shrubs, particularly as used in making canoes and building houses.

2. *Symbolization of the god Lono* (partial):

a. As god of rain:

Lono-nui-akea: Lono-of-wide-expanse.

Lono-nui-noho-i-ka-wai: (Great-Lono-dwelling-in-water.

1) Visible in cloud and storm phenomena: Thunder; rain-clouds; "Blood-red rainfall" (uakoko) as flood after storm; rainbow (uakoko); Lightning (maka'ālohilohi "flashing eyes").

2) Heard as sound of thunder (Lono), thus the verb *ho'olono*, "to hear."

b. As god of the agricultural year:

Lono-i-ka-makahiki: Lono-in-the-year; Lono-in-the-first-fruits-season

1) God of first fruits, tax-collecting, sports, in the makahiki season.

(a) Major forms: Ipu o Lono (gourd, hue, ipu); (sweet potato, 'uala)

Ipu o Lono image in *hale mua* (unu o Lono)

2) God of the *ahu-pua'a* image.

(a) The boar incarnation of Lono as Kamapua'a the hog demigod (kupua). Represented as a pig's head carved from *kukui* wood.

(b) As the medicine god:

Lono-puha: Lono-of-abscess

(c) Plant forms of *Kamapua'a*, as medicinal *kinolau* of Lono:

kuki: *Aleurites moluccana*

ama'uma'u fern: *Sadleria* spp.

hala: *Pandanus odoratissimus*

uhaloa: *Waltheria americana*

kūkae-pua'a grass: *Digitaria pruriens*

(Pua'a) olomea: *Perrottetia sandwicensis*

hapu'u fern: *Cibotium* spp.

lū'au leaf: *Colocasis esculenta*

hinu pua'a banana: *Muscacear* spp. (black)

limu lipu'upu'u: *Valonia utricularis*

kī (tī): *Cordyline terminalis*

3) Images of Lono-i-ka-makahiki (other than Ipu o Lono gourd image)

Lono-makua (makahiki standard): Lono-father

Called the *akua loa*: (long god, carried around the island);

akua poko: (short god, carried inland).

c. As god of fire-making:

Lono-pele, Lono-makua: Lono-in-lava-flow, Lono-Father.

1) In firesticks, the 'aunaki (grooved, light wood); 'aulima (held in the land, hard wood) (Polynesian fire-plow method).

2) Lono-pele, Lono-makua: names of the volcano goddess; Pele god of fire-making.

d. Other kinolau of the god Lono.

1) "Pig-fish" forms of Kamapua'a/Lono:

humuhumu-nukunuku-a-pua'a: Rhinecanthus aculeatus

humuhumu: all trigger-fishes

kūmū: Upeneus prophyreus, goatfish

'ohua palemo: young of uhu, parrotfish

paulu: surgeonfish

pawalu: oilfish (Ruvettus pretiosus)

2) Sacred black color: hiwa, hiwahiwa (as of sacrificial pig).

Shiny black color: hinu, hinuhinu (as of sacrificial banana).

3) Lono-muku: Lono-cut-off (as moon phases, dark night)

Another name for Hina-hānai-a-ka-malama, goddess of the moon.

3. Symbolization of the god Kāne:

a. Atmospheric and geophysical phenomena:

1) Kāne-nui-akea: sky

2) Kāne-ka-'onohi-o'ka-la: sun

3) Kāne-i-ka-hoku-lani: star

4) Kāne-hekili: thunder

Kāne-i-ka-leo-lono-nui

Kāne-i-ka-leo-lono-iki

Kāne-i-ka-leo-'ula-nui

5) Kāne-wawahi-lani

Kāne-uila-ma(ka)-ke-hā-'i-ka-lani: lightning

Kāne-i-ka-pōhā(ku)-ka'a: hailstones

6) Kāne-i-ka-punohu-'ula: red rainbow

Kāne-i-ke-anuenue: rainbow

Ke-ao-popolo-hua-mea-ā-Kāne: purple thunderhead

7) Kāne-i-ke-pili: cloudburst, atmosphere

Kāne-i-ka-ua: rain

Kāne-i-ke-ao-lani: heavenly cloud

Kāne-i-ke-ao-luna: upper clouds

Kāne-i-ke-ao-lewa-lalo: lower clouds

Kāne-i-ka-maka-o-ka-opua: tips of the horizon clouds

Kāne-i-ka-pua-lena: yellow cloud

8) Kāne-i-ka-pa-kolonahe: in the gentle breeze

Kāne-i-ke-aheahe-malie: in the calm breeze

Kāne-i-ka-makani-iki: in the slight wind

Kāne-i-ka-makani-nui: in the great wind

Kāne-i-ka-pūahiohio: in the whirlwind

Kāne-i-ke-kiu: in the Kiu wind (sharp point)

9) Kāne-i-ke-ahi: fire

Kāne-i-ka-'ohu: mist

Kāne-i-ka-noe: mist

Kāne-i-ka-uahi (-nui, iki): smoke

Kāne-i-ke-aka: shadow

Kāne-i-ke-aka-o-Kapolei: shadow-of-Kapo-lei

10) Kāne-hulihia (i-Kahiki): overturning of Kahiki (earthquake)

b. Water

Kāne-i-ka-pahu'a-nui: great thrust

Kāne-i-ka-pahu-wai (nui, iki): water

Kāne-i-ka-wai-ola: (Ka-wai-ola-ā-Kāne, the healing waters of Kāne; fresh water).

c. Agriculture

Kāne-pua'a: pig

d. Reef, coral

Kāne-kokala: coral

Kāne-i-ke-kokala-loa: reef

Kāne-i-ke-kokala-lu-honua: shaking coral

Kāne-i-ke-kokala-kū-honua: steadfast coral

Kāne-i-ke-kokala-kiu: sharp-pointed coral

Kāne-i-ke-kokala-ahe: wafted coral

e. Directions (movement, stationary position).

Kāne-i-ka-holoholo-uka: to run upland

Kāne-i-ka-holoholo-kai: to run towards the sea; short travel (running, sailing)

Kāne-i-ka-holo-nui: great travel

Kāne-noho-uka: living upland

Kāne-noho-kai: living by the sea

Kāne-hālō-luna: to look upward

Kāne-hālō-lalo: to look downward

Kāne-hālō-lewa-lalo: to look in the lower spaces of the atmosphere

f. Land formations.

Kāne-noho-pali-luni: dwelling in the upper cliff

Kāne-noho-pali-lalo: dwelling in the lower cliff

g. Plants.

Kāne-i-ka-ho'opuakea: pale flower

Kāne-i-ka-pua-lalahua: seed-scattering flower

Kāne-i-kamaile: *Alyxia olivaeformis*

Kāne-i-ka-palai: *Microlepi setosa*

Kāne-i-ka-ei'ie: *Freycinetia arborea*

Kāne-i-ka-pua-lehua: *Metrosideros macropus*

Kāne-i-ka-pualena: yellow flower

Kāne-i-ka-'olapa: *Cheirodendron* spp.

Kāne-i-ka-halapēpē: *Dracaena* (*Pleomele*) *aurea*

Kāne-i-ke-kalo: *Colocasia esculenta*

Kāne-i-ke-kō: *Saccharum officinarum*

Kāne-'ohe: *Graminae bambusa*

Kāne-i-ka-'awa: *Piper methysticum*

(pua-kala): spiny poppy (*kala*, 'to forgive')

(limu-kala): seaweed, *Sargassum* spp.

h. Birds.

Ka-pueo-kahi: lone owl (bird of Kamehameha IV)

Ka-pueo-makalulu: owl of peace ("still eyes")

i. Procreation, fertility.

Pohaku-o-Kāne: stone-of-Kāne pillar as fertility shrine

4. *Symbolization of the god Kanaloa*.

a. God of the sea.

octopus, as symbol of the
eight-eyed, or eight-legged
wind compass rayfish
whale, propoise, whale ivory
coral (with Kane)

b. Plant forms.

banana fiber, as used in cordage ('awe'awe, plantain).

uhaloa (*Waltheria americana*), with Kamapua'a/Lono

black 'awa ('awa hiwa), with Kāne.

c. Other

sunlight and white color (with Kāne)

To summarize the discussion of *kinolau* symbolism, although more thorough analysis is really needed, suffice it to say that a significant number are *staple* plants, or basic, necessary *food* plants: taro (*Kāne*, *Lono*, *Haloa*); sweet potato (Lono); breadfruit (*Ku*, *Haumea*); cane (*Kāne*). Another group are *medicine and narcotic plants*: *'uhaloa* (*Lono*, *Kanaloa*); ti plant (*Kū*, *Lono*); *kala* (*Lono*); or fiber plants: coconut (*Kū*); banana, plaintain (*Kanaloa*); fern down as stuffing for embalming the dead or for fire-making (*Kū-pulupulu*, *Lono-makua*). A very important group are *hardwood plants* and trees used in making weapons, implements, and in general building of houses, canoes, or carving of images, all forms of *Kū*. Others are plants used in constructing parts of the temple, as fencing or thatching: lama (Lono); loulu palm (Kū).

D. POST-CONVERSION HAWAIIAN CONFLICT IN NATIVE IDENTITY

This section discusses post-conversion Hawaiian conflict in native identity, or crisis in self and group esteem, reflecting positive or negative personality or identity changes; or, the opposite, Hawaiian steadfastness in tradition with resiliency in adjusted or modified personality and identity change. As we contemplate the first Hawaiian "Christians", the names of several powerfully influential people come into view, including Henry 'Opukahaia and David Malo.

Henry 'Opukahaia, or Obookiah, was a young boy when war took the lives of his parents and baby brother and made him a captive in the household of his captors. He endured the stay until other men threw his aunt off a cliff into the sea. He stole away on a ship with Captain Brintnall "from New York." In 'Opukahaia's own words he tells what it was like to feel abandoned in the society of the 1790's:

> At death of my parents...I was with them; I saw them killed with a bayonet--and with them my little brother, not more than two or three months old. So that I was left alone without father and mother in this wilderness world. Poor boy, thought I within myself, after they were gone, are there any father or mother of mine at home that I may go and find them at home? No, poor boy am I. And while I was at play with other children--after we had made an end of playing, they return to their parents--but I was returned into tears;--for I have no home, neither father nor mother. I was now brought away from my home to a strange place and thought of nothing more but want of father or mother, and to cry day and night.
>
> While I was with my uncle, for some time I began to think about leaving that country to go to some other part of the world. I did not care where I shall go to. I thought to myself if I should get away, and go to some other country, probably, I may find some comfort, more than to live there without father and mother...
>
> ...the captain made some inquiry to see if we were willing to come to America; and soon I made a motion with my head that I was willing to go. This man was very agreeable, and his kindness much delighted my heart, as if I was his own son, and he was my own father. Thus I still continue thankful for his kindness toward me.
>
> ...As soon as my uncle heard that I was going to leave him, he shut me up in a room, for he was not willing to let me go. While I was in the room, my old grandmother coming in asked me what was my notion of leaving them, and go with people whom I know not. I told her it is better for me to go than to stay there. She said if I should leave them I shall not see them any more. I told her that I shall come back in a few months, if I live. Her eyes were filled with tears. She said I was a very foolish boy. 8/

This moving personal account written in fluent English by a native Hawaiian scholar while in New England training to return as a missionary to the Hawaiian people, tells a certain truth about the character of the Hawaiian people at the time of European contact. When 'Opukahaia died in 1818, the American Board of Commissioners for Foreign Missions sent the First Company instead, men like Hiram Bingham, Asa Thurston, and Elisha Loomis. He was converted completely to Christianity and by the time of death had mastered English and Latin, common arithmetic, geometry, and was learning Hebrew. Because of the strength and fervor of 'Opukahaia's determination to bring Christianity to Hawaii, the mission felt obliged to undertake forming the First Company and sent it out in 'Opukahaia's place. One of 'Opukahaia's letters frames this frustrated commitment:

> I hope the Lord will send the Gospel to the Heathen land where the words of the Savior never yet had been. Poor people worship the wood, and stone, and shark, and almost everything [as] their gods; the Bible is not there, and heaven and hell they do not know about it. I yet in this country and no father and no mother. But God is friend if I will do his will, and not my own will. 9/

David Malo, born in 1793, commenced his studies for Christian ministry at 30 years of age. He spent the previous 30 years immersed in ancient culture preparing for the priesthood. Converted in 1823 in Lahaina, he began writing the Mo'olelo Hawaii (Hawaiian Antiquities), a historical description of ancient mores, after 1831, in the company of other illustrious Hawaiian peers at Lahainaluna Seminary. Before his death in 1853, Malo finished other writings that have been lost. Had he not written the Mo'olelo Hawaii, all that has been included about ancient religion in this Report would never have been available. Although converted, Malo still accepted the task of writing about the past he had come to reject.

Malo cannot be fully appreciated, however, by reading his written work without assessing his lifetime as a period of immense cultural upheaval:

1) The conquest of Oahu by Kamehameha in 1795 (Malo was two years old);

2) The ceding of Kaua'i to Kamehameha by Kaumuali'i in 1810 (Malo was seventeen);

3) The death of Kamehameha I in 1819 and overthrow of the kapu system in the same year (Malo was twenty-six);

4) The arrival of the First Company of American missionaries in 1820 (Malo was twenty-seven);

5) The conversion of Malo at Lahaina in 1823 (Malo was thirty); William Ellis arrived in Hawaii with Tahitian converts who spoke fluent English;

6) Malo entered Lahainaluna Seminary in 1831 (he was thirty-eight when he commenced his studies); 10/ [See footnote for explanation of curriculum at Lahainaluna Seminary.]

7) The first printing press at Lahainaluna Seminary published the first Hawaiian language newspaper, Ka Lama Hawai'i (The Hawaiian Torch) in 1834 (Malo was forty-one);

8) The Hawaiian Magna Carta, or Declaration of Rights, was promulgated by Kamehameha III in 1839 (Malo was forty-six);

9) The first constitution setting up a constitutional monarchy was promulgated by Kamehameha III in 1840 (Malo was forty-seven);

10) The first partitioning of land in the Great Mahele took place in 1848 (Malo was fifty-five);

11) The *Kuleana* Act of 1850 gave the *maka'ainana* title in fee to land (Malo was fifty-seven);

12) Kamehameha III died in 1854; Malo was already dead in 1853 at the age of 60.

The list of critical events does not include the difficulties experienced by the fledgling kingdom with foreign nations between 1793 and 1853. During this period Kamehameha III witnessed the civil war on Kaua'i in 1824 (death of Liholiho in England); the struggle between the clergy of Protestant (American) and Catholic (French) missions, until 1839, when freedom of religion became a constitutional guarantee; the Lord George Paulet episode in 1843 by which the king temporarily ceded the government to Britain; restoration of sovereignty to the Hawaiian monarchy by Admiral Thomas in 1843; and the smallpox epidemic, 1853.

It would seem then that in 1853-1854 two great Hawaiian representatives of the post-conversion period of immense change in Hawaiian life and society died: David Malo and Kauikeaouli (Kamehameha III). Their attitudes were interesting contrasts. Malo, destined for the Hawaiian priesthood, followed that career out by switching allegiance in the midstream of life away from the Hawaiian *akua* to the *Akua Mana Loa*, Jehovah of the Old Testament and the "Perfect Spirit" (*akua Hemolele*), or "Father: (Makua) of the New Testament." By the end of his life he had become too disillusioned by the knowledge that foreigners would be arriving in such sufficiently larger numbers to eventually overwhelm Hawaiians:

> Malo was one of that class to whom the prophetic vision of the oncoming tide of invasion--peaceful though it was to be--that was destined to overflow his native land and supplant in a measure its indigenous population, was acutely painful and not to be contemplated with any degree of philosophic calm; and this in spite of the fact that he fully recognized the immense physical, moral and intellectual benefits that had accrued and were still further to accrue to him and his people from the coming of that man to his shores. And this sentiment, which was like a division of councils in his nature, controlled many of his actions during his life, and decided the place of his burial after death. 11/

In order to escape the "tide of invasion," Malo requested burial atop Mount Ball high above Lahainaluna Seminary.

By contrast, Kauikeaouli, although king, never submitted to conversion to Christianity and never became a member of the established Protestant Church at Kawaiaha'o in Honolulu, although he attended services. What would Henry 'Opukahaia say if he had lived to be a bold instigator of such changes wrought by two living Hawaiian personalities, Hawaiian priest and ruling chief, after the 1819 overthrow of the *kapu* system that propelled them into changed roles of diminished authority and power? This is the background against which to evaluate the search today by Hawaiians for traditional values in the culture that got away from them.

E. PRESENT-DAY SEARCH FOR TRADITIONAL VALUES

In 1979, the Humanities Conference addressed these issues of concern and need among Hawaiians in a panel discussion on: "Can the Humanities Help the Search for Traditional Hawaiian Values?" Since then the Office of Hawaiian Affairs has become a reality, but at that time the community was groping for answers to some of these questions:

> Do humanities scholars know what values motivated ancient Hawaiian society and to what extent they are now present in the contemporary Hawaiian society? Moreover, if they do know what they were and are, are such values proper for present-day Hawaiian society with its multi-ethnic composition? Or, rather, if they are worth recovering, should they be applied to present-day social aims to promote inter-ethnic understanding or to be strictly applied toward the Hawaiian Renaissance? If so, how shall they be applied and who shall determine the effective means of implementation?
>
> Let us assume that traditional Hawaiian values are worth knowing by humanities scholars and worth recovering by both the general public and the Hawaiian people themselves. What questions would then be posed? If it should be assumed that the people of Hawaii and the Hawaiians in particular wish to recover certain traditional values, does this imply that they genuinely feel something of tremendous value has been lost to all of society that was formerly unique to the aboriginal group? What then do they wish to recover for the sake of all and also what, in more specific terms, ought to be recovered for the sake of the Hawaiian people? Whose responsibility would it then be to determine those differences in value choices and under what conditions? Would it be largely a question for an open society to contemplate or is it one in which the role of the Hawaiian group may assert priority in basic decision-making? If the latter, in what role would the humanities scholars then find themselves if they have not yet ascertained what their present state of actual knowledge of Hawaiian values is, and if it is sufficiently reliable enough when used to augment or to modify any determination effected chiefly through the means of political, rather than intellectual or economic process? 12/

Since the Humanities Conference of 1979, when these questions were first offered for consideration, the Office of Hawaiian Affairs (OHA) has been mandated by the State Constitution, with full community support and legislative backing, precisely to give Hawaiians priority in decision-making on issues directly affecting their lives now and in the approaching future.

The need for research into the area of indigenous Hawaiian cultural values, including those of ethics and religion, has become a primary requirement in OHA's program for cultural recovery. Most Hawaiians are unsure of what the true, dependable, and trustworthy models are and if they are suited to their present needs and conditions, while some feel they need to be simply recognized, esteemed, and respected not just for what they are but who they are, the last living remnant of the original inhabitants of this place. What can others learn about cultural extinction as it rapidly lunges forward in the wake of replacement by values inimical, in many ways, to those of extended families in large kind groups? What can silent temples be made to reveal of Hawaiian knowledge if probed, and probed with understanding? What values, if any, exist there for Hawaiians to realize how their families and ancestors of old fared under kind or ruthless power figures?

The issue of Kaho'olawe looms large in the minds of young and old alike, but the issue remains a divisive polarization of opinion between young Hawaiians who wish the Navy to stop bombing long enough to allow them to set up religious practices in accordance with present law, and older Hawaiians who see no need to recover it from the United States Navy. Common ground or agreement between them may be found, perhaps, in the realization of scientific interest and curiosity about existing archaeological sites on that island.

OHA states in its 1982 report the view that: "The Hawaiian religion was the first aspect of our culture to be suppressed. It is today the least understood dimension of the culture. As we shed light on religious and ceremonial practices, we will choose more freely how we live our lives."

There is no doubt in anyone's mind that much can be gained in combing recorded but untranslated Hawaiian documents for history on such sites that have been wasting away through neglect, due to lack of funds to study them more fully. The value, especially for young Hawaiian people, in involving themselves in careful, patient study as such is that it generates enthusiasm for authentic history. 13/

F. RECOMMENDATIONS */

From all appearances the OHA cultural plan under the State of Hawaii for implementation of action to gather, record, and to make available information desired by the Hawaiian community about traditional values in religion and ethics, or rites and ceremonies, seems to be on solid ground.

In the same direction one major private corporation, American Factors, has begun to seriously consider building, within a live native Hawaiian village setting, a functioning heiau kilolani, or astronomical temple than, among other things, will feature alignment to the celestial equator/ecliptic coordinate system, which is known to have been used by ancient Hawaiian priests in computing the sidereal and tropical calendar.

In the same context, astrophysicists and geographers have been drawn to the Pacific, Hawaii included, to continue research into potential archaeoastronomic sites in the Oceanic and Southeast Asian area. Within the last few years, some of this work has reached publication. 14/

Along these lines of inquiry, local, national, and international interest in the Pacific archaeo- and ethno-astronomy may perhaps grow, with concomitant interest in the aboriginal religious institutions that raised, as in Hawaii, temples to celestial and spiritual understanding. On never knows how much human progress there is in this mustard seed of genuine hope.

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*/ NOTE: These recommendations are reproduced directly from Professor Johnson's paper, and do not necessarily refect the views of the Native Hawaiians Study Commission. (See "Conclusions and Recommendations," above.)

NATIVE HAWAIIAN RELIGION

NOTES

1/ David Malo, Hawaiian Antiquities (Moolelo Hawaii) (Honolulu: Bernice P. Bishop Museum, Special Publication 2, 1951), Second Edition, translated by Dr. Nathaniel B. Emerson (1898), p. 82.

2/ Urey Lisianski, Voyage Round the World in the Years 1803, 1804, 1805, and 1806, Bibliotheca Australiana No. 42 (New York: Da Capo Press, 1968), pp. 84, 87, 120, and 127.

3/ See Rubellite K. Johnson, Kumulipo, Hawaiian Hymn of Creation, Volume I (Honolulu: Topgallant Publishing Co., Ltd., 1981); pp. 145-14 to 145-19 of this volume were included in Professor Johnson's paper and are appended to this Report, in the Appendix containing the written comments received by the Native Hawaiians Study Commission.

4/ Malo, p. 82.

5/ Mary Kawena Pukui and Samuel H. Elbert, Hawaiian Dictionary (Honolulu: University of Hawaii Press, 1971), p. 9.

6/ See A. I. Kroeber, Anthropology: Culture Patterns and Processes (New York: First Harbinger Books, 1963). Pages 211-213 were included in Professor Johnson's paper and are appended to this Report, in the Appendix containing the written comments received by the Native Hawaiians Study Commission, as pages 145-21 to 145-22.

7/ Malo, p. 81.

8/ Henry Opukahaia, Memoirs of Henry Obookiah, A Native of Owhyhee, and a Member of the Foreign Mission School; Who Died at Cornwall, Connecticut February 17, 1818, Aged 26 Years, edited by Edwin Dwight (Honolulu: Published on the 150th Anniversary of his death, 1968), p. 7.

9/ Ibid., p. 28, Letter from Andover, dated December 15, 1812.

10/ The following paragraphs of Professor Johnson's paper appeared in her original paper at this point in text:

> It is important here to realize what the curriculum was like at Lahainaluna Seminary between 1831 and 1850. The curriculum included the "hard" sciences and higher mathematics (geometry, trigonometry, navigation), geography (Biblical and world), anatomy, grammar in Hawaiian and English, and not purely religious subjects. The texts used were produced in Hawaiian at the school by translating from English and other language texts, but it is the calibre of the Hawaiian technical texts that astound present-day scientists. Evaluation of the Anahonua (Land Surveying) text in Hawaiian, as written by the Rev. Ephraim Clark, has been evaluated by Dr. E. Dixon Stroup, oceanographer (Hawaii Institute of Geophysics, University of Hawaii). Below is a facsimile of his evaluation:
>
>> The Manual of Navigation is the last major division of Ke Anahonua, published in Hawaiian at Lahainaluna in 1834. It is the most technically advanced section in a book which begins with the basic definitions of geometry ("point," "line," and "plane"). The methods described include both dead reckoning and celestial navigation

as used by western navigators in the 1830's (and, in fact, into the early 1900's). While there is no input of Polynesian navigation, a lot is revealed about the surprisingly high academic level of instruction at Lahainaluna in these early days. It is clear from the text, and in many illustrative navigational problems and exercises, that the students were required to have ability in the following areas:

Basic geography (world wide).

Astronomical concepts (orbits and relative distances of moon, sun, planets, and fixed stars; the thin atmosphere of earth in empty space; curvature of the earth and its effect on the horizon; refraction of light, etc.).

Worldwide time and its relation to the earth's rotation.

Use of a sextant (at least in principle) and drawing instruments (in practice).

Abstract concepts, such as comparison of real observations with those which might be made by a hypothetical observer at the center of the Earth.

Use of mathematical tables of various sorts (familiarity with log tables) and the use of logarithms in working numerical problems--(Note: This was introduced with no explanation in the text). Trigonometry and the use of tables of trig functions. Use of a log-scale ruler (like a slide rule without the slide) in working problems. Working out of quite complex problems, involving many steps. (As an example, the following quote is part of the instructions for working up Lunar Observations:

"From Table XIV, extract the logarithm equal to the parallax and it is written in two columns. Write down the cosecant of the Lunar altitude below the second (column), and the cosecant of the solar altitude under the first, and the sine of the corrected distance under the first, and the tangent of the corrected distance under the second. Add these two columns (discarding the interval 20), then look for the logarithms in Table XIV, where the two arcs are written. If the first arc is greater than the second, subtract the excess from the corrected distance; however, if the second arc is greater than the first, add the excess to the corrected distance; and if the corrected distance is greater than 90° then subtract the sum of the two arcs from the corrected distance; this the true distance.")

Comments of the Translation: My main reaction is admiration for the way that they were able so successfully to put pretty heavy technical material into Hawaiian, along with numerical examples. This is a Manual, not just a simplified introduction to the subject. I know I would have a hard time trying to put a lot of this across in English, to college freshmen today!

It's also clear that they had a high opinion of the ability of their students, or they wouldn't have taken (what must have been) the very great trouble of printing all this complex stuff, with numerical tables and examples of computations. (Setting the type by hand--wow!)

The text is also an excellent illustration of the general principle that, for translation of technical material, the translator had better have some *technical* background in the area, besides knowledge of Hawaiian. Would someone not a navigator or cartographer know that "*na hakina meridiana*" should translate as "meridional parts" and nothing else? Or that "*alanuihonua*" should be "ecliptic?" Or "*hina*," "dip?" "*Holo ililaumania*," "plane sailing?" The text is full of these; a translator unfamiliar with the English terminology would make a botch of it no matter how hard he tried. *With* such background, the Hawaiian reads with remarkable ease. (E. Dixon Stroup, Manuscript translation of the *Manual of Navigation* in *Ke Anahonua*, section entitled *Ke Kumu o Ka Holoholomoku* (the principles of sailing in ships or navigation) (Lahainaluna: Press of the High School, 1834), pp. 83-122; in Rubellite K. Johnson, "The Contribution of Lahainaluna to Educational Excellence," Keynote Address on the occasion of the Sesquicentenniel Celebration of the founding of Lahainaluna Seminary in Hawaii in 1831 (presented May 23, 1981).

11/ Dr. Nathaniel B. Emerson, in Malo, p. xiii.

12/ Rubellite K. Johnson, "Can the Humanities Help the Search for Traditional Hawaiian Values," Hawaii Committee for the Humanities Newsletter (May, 1979), pp. 1-7; in *Cultural Pluralism and the Humanities*, Proceedings of the 1979 Humanities Conference, panel entitled: "The Hawaiian Renaissance and the Humanities" (Honolulu: Chaminade University, April 14, 1979).

13/ See two pieces appended to this Report in the Appendix containing the written comments received by the Native Hawaiians Study Commission: an article on the study of Ku'ilioloa Heiau, by young students (*Hawaii Coastal Zone News*, Vol. 4, No. 10 (February, 1980)); and the Office of Hawaiian Affairs' program for Hawaiian religion (First Draft, 1982).

14/ See, Armando Da Silva and Rubellite K. Johnson, "Ahu a 'Umi Heiau, a Native Hawaiian Astronomical and Directional Register," in *Ethnoastronomy and Archaeoastronomy in the American Tropics*, edited by Anthony F. Aveni and Gary Urton, *Annals of the New York Academy of Sciences*, Vol. 385 (May 14, 1982): pp. 313-331. This study appears in the Appendix of this Report.

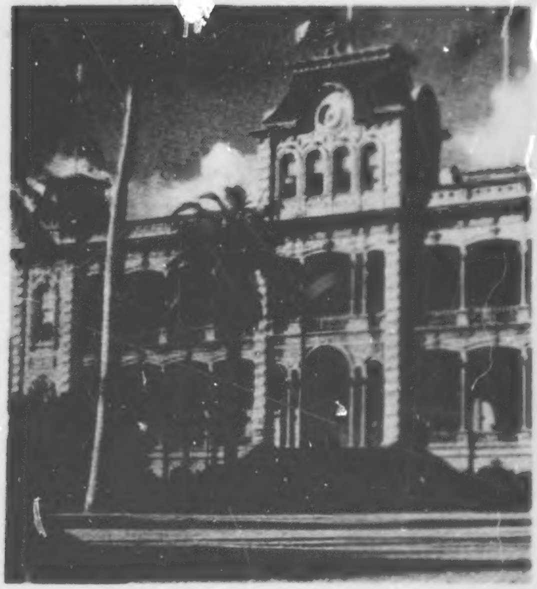
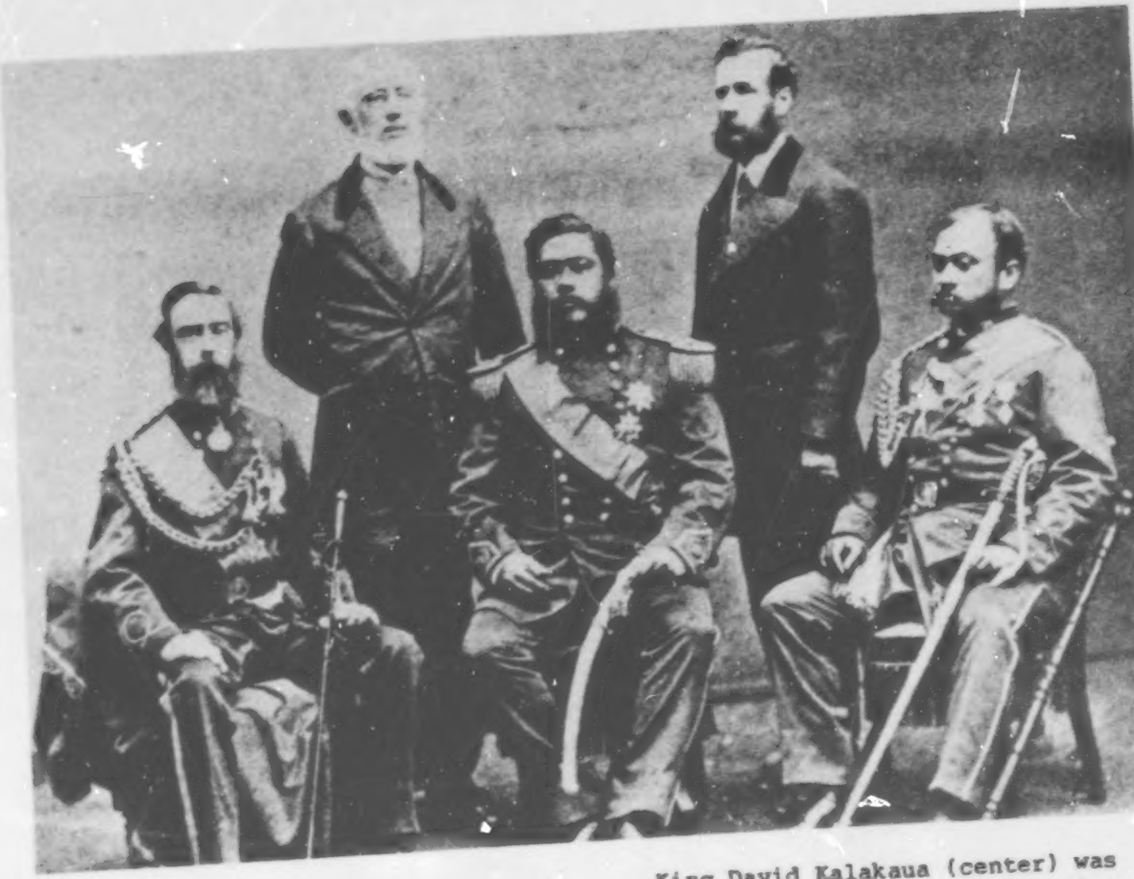


Photo by Robert Goodman.

Iolani Palace.

Part II
Federal, State, And Local Relationships



R. J. Baker Collection.

King David Kalakaua (center) was accompanied by Governor Dominis, Chief Justice Allen, U.S. Minister Pierce, and Governor Kapena on their journey to Washington, D.C. to negotiate terms of the 1875 Reciprocity Treaty with the United States.

Land Laws And Relationships

This chapter outlines the history of laws governing land ownership in Hawaii, and considers the special problems that native Hawaiians perceive related to the land ownership history.

A. HISTORY OF LAND OWNERSHIP LAWS

Traditional Land Tenure 1/

When Captain Cook arrived in Hawaii in 1778, the country had a complex land tenure system, similar to a European feudal system, 2/ that supported a dense population. Whole portions of islands were controlled by high chiefs (*ali'i*). An important landholding unit was an *ahupua'a*, controlled by a chief. The *ahupua'a* ranged in size from 100 to 100,000 acres, generally with natural boundaries running from mountain tops down ridges to the sea, "enabling the chief of the *ahupua'a* and his followers to obtain fish and seaweeds at the seashore, taro, bananas, and sweet potatoes from the lowlands, and forest products from the mountains. However, more often than not, an *ahupua'a* failed to extend to either the mountain or the seashore, being cut off from one or the other by the odd shapes of other *ahupua'a*." 3/

The *ahupua'a* was divided into *ili*. Subchiefs and land agents (*konohiki*) controlled smaller units of land. *Ili kupona* were another type of *ili*, and were completely independent of the *ahupua'a* in which they were situated. The chief of the *ili kupona* paid tribute directly to the king. Commoners (*maka'ainana*, or people of the land) worked the land for the benefit of the chief. Commoners had their own plots, and had gathering rights and fishing rights 4/ on those *ahupua'a* lands that were not cultivated. 5/ Landholdings were revocable at the will of the chief. At the death of a high chief, his successor could redistribute his lands among the low chiefs; the lands were not necessarily given to the decedent's heirs. Warfare erupted among chiefs over land rights and resulted in reassignment of control over land. These changes affected neither the land boundaries nor the common farmers. The *maka'ainana* generally stayed on the same land even though the *ali'i* controlling the land changed. However, common farmers were not bound to a specific piece of land and could leave the *ahupua'a* if they were unhappy with their landlords. This distinction from European patterns may have made the chiefs more sympathetic landlords than their European counterparts, because of their need to keep an available workforce. 6/

It is important to emphasize that the concept of fee-simple ownership of the land was unknown to Hawaiians. */ The high chiefs did not own the land--they merely managed the land and other resources: "From a religious viewpoint, the *ali'i nui* [high chief] was a person of divine power. Yet his authority was not a personal authority. It was, instead, a power channeled through him by the gods. In relation to the land and natural resources, he was analogous to a trustee." 7/ The ancient land system thus stands in stark contrast to Western concepts of private ownership:

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*/ This paragraph added from comments of the Office of Hawaiian Affairs; edited to avoid duplication.

> The ali'i nui...himself enjoyed no absolute ownership of all the land. The ali'i nui was a trustee of all the people within an island or some other larger district. The konohiki also maintained a similar tentative position because the maka'ainana were free to leave the ahupua'a if they were unhappy with a particular chieftain...or konohiki. In short, the members throughout the political hierarchy shared a mutual dependence in sustaining their subsistence way of life...8/

However, the land itself was viewed as belonging not to one individual but to the gods. All the people, including the ali'i, merely administered the land for the benefit of the gods and society as a whole.

The system, therefore, had no analogy to ownership in fee simple absolute. 9/ The high chief had significant power: "the king was over all the people; he was the supreme executive, so long, however, as he did right!" 10/ The native Hawaiians believed that the power of the high chief was divine power, channeled through him by the gods, and that he was a trustee of the land and other resources on behalf of the gods. 11/ This concept continued down through the political hierarchy.

Transition Period: 1778 to 1846

The arrival of westerners altered socio-economic patterns in Hawaii. By 1795, King Kamahameha I had expanded his rule to all of Hawaii except the island of Kauai, in part by use of European arms. An aristrocratic class developed, which had to be serviced by the Hawaiian economy. Further, the activity of port communities and demands of the sandalwood trade drew the farmers from the land. The new focus away from subsistence coincided with the spread of Western diseases and worsened the lot of the commoners. Agriculture suffered as a result. Traditional notions of responsibility to chiefs were disrupted, and an oppressive tax system was installed. 12/ The result, however, was greater control by the king and greater stability in landholding. 13/

In 1819, Kamehameha II became king, and with the Dowager Queen Kaahumanu as regent, ruled until 1825. He decided not to disrupt the holdings of his predecessor's subchiefs. Foreigners wanted to codify this new stability in landholdings. 14/ Therefore, when Kamehameha III became king at age 12, the council of chiefs, with some advice from an English frigate captain, persuaded him to adopt a formal policy allowing chiefs to keep their land upon the king's death. This policy was known as the Law of 1825. During this time as well, westerners were given lands by the king or chiefs, so that they entered the Hawaiian landholding pattern. 15/ When the sandalwood trade collapsed from overharvesting, these westerners turned to large-scale plantation crops as a focus for economic activity. 16/

In 1839, Kamehameha III set forth a Declaration of Rights providing that: "Protection is hereby secured to the persons of all the people, together with their lands, their building lots and all their property, and nothing whatever shall be taken from any individual, except by express provision of the laws." 17/ In 1840, a written constitution was adopted. It attempted to adjust land rights to reflect the new relationships described above. It was designed as a final attempt to preserve the traditional land system and to keep native Hawaiians in their homes rather than migrating to the developing port areas of Honolulu and Lahaina. The constitution, and laws enacted pursuant to it, announced tenants' rights for the first time and lowered labor taxes. Native Hawaiians who had already left their land were given the opportunity to return by applying for any uncultivated lands. The Constitution of 1840 also provided that the king could lose no land without his consent--an effort to deal with the fear of alienation of land to foreigners. However, the constitution provided that property already held by foreigners would not be reclaimed by the crown--an effort to avoid conflict with foreigners. 18/

The Constitution of 1840 did not totally put to rest land disputes--problems and episodes continued. In 1841, the king announced a plan to allow island governors to enter into 50-year leases with foreigners. 19/ As discussed below, a large number of acres were conveyed to foreigners. In 1843, in part because of a lease dispute, the British warship Carysfort entered Honolulu, and its captain took over the government for five months. 20/ Although Britain repudiated the captain's action, the episode was a clear mark of problems to come.

The Great Mahele

Because of the increasing pressure for change in the land tenure system, in 1845 the legislature provided for, and the king established, a Board of Land Commissioners. 21/ The Commission was charged to conduct "the investigation and final ascertainment or rejection of all claims of private individuals, whether natives or foreigners, to any landed property acquired anterior to the passage of this Act..." 22/ Existing land law was to be the basis for its conclusions, including "native usages in regard to landed tenures." 23/ The Commission had five members, of whom two were native Hawaiians, one half-Hawaiian, and two westerners. 24/

The Commission first examined building lots in Honolulu and Lahaina, since this land was already outside the traditional feudal scheme. 25/ In determining who was entitled to land in conveying plots, the Commission stated that it found "no native rights of occupancy in this plot." Based on those awards, the Minister of the Interior was authorized to issue fee patents. A number of land disputes within the foreign community were thus resolved. 26/

The next step was the adoption by the Commission in 1846 of "Principles," ratified by the legislature. The Commission's goal was "total defeudalization and partition of undivided interests." 27/ The Principles stated:

> If the King be disposed voluntarily to yield to the tenant a portion of what practice has given himself, he most assuredly has a right to do it; and should the King allow to the landlord one-third, to the tenant one-third and retain one-third himself, he, according to the uniform opinion of the witnesses, would injure no one unless himself;...According to this principle, a tract of land now in the hands of landlord and occupied by tenants, if all parts of it were equally valuable, might be divided into three equal parts... 28/

In fact, no action was taken on this recommendation, and it was not adopted as a way to implement the division. 29/ The king and chiefs did not intend to divide the land in thirds with the tenants. 30/ The statement that the land was divided into three parts--one part to the king, one part to the chiefs, and one part to the common people--is wholly erroneous. 31/

Therefore, how to fulfill the Principles was debated at length. On December 18, 1847, a formulation drafted by westerner Justice William Lee was adopted by the king and chiefs in Privy Council. 32/ Under this formulation, lands of the king were distinguished between those he held as king and his private lands. He was to retain all his private lands, with a right in his tenants "to a fee simple title to one-third of the lands possessed and cultivated by them" whenever the king or tenants desired. 33/ The remaining land in the kingdom was to be divided into thirds: one-third to the Hawaiian government, one-third to the chiefs and konohiki, one-third to the tenant farmers. 34/ If he paid the government, a chief or konohiki could also retain his proportional share of the one-third which was to go to the government; that is, to get the land patent, the chief had to pay the government either with money or with one-third of the land to which he sought title. 35/

The Great Mahele--or division--was conducted from January 27 to March 7, 1848. Interests were written in the Mahele Book. The king quit-claimed his interest in specific ahupua'a and ili under the control of 245 chiefs and konohiki, and the chiefs in turn quit-claimed to the king their interests in the balance of the divided lands, which became the king's private lands, subject to the commoners' claims. 36/

At the end of the process, the king "set apart forever to the chiefs and people of my kingdom" approximately 1.5 million acres (the Government lands) and kept for himself, his heirs, and successors approximately one million acres (the Crown lands). The remaining 1.5 million acres were awarded to the chiefs, "reserving the rights of the people." 37/ The division was affirmed by legislation. 38/

To defeudalize the land totally, the Commission also had to divide the interests of the common people. By an 1850 Act, each tenant was allowed to apply for his own kuleana. Such land could come from the Crown lands, from the Government lands, or from the other 1.5 million acres of the kingdom. A kuleana could include only land that was actually cultivated plus a houselot of one-quarter acre. The tenant had to prove his claim by 1854 and pay survey costs. In fact, commoners received fewer than 30,000 acres under this Act. 39/ Only 26 percent of the adult male native population received these lands. 40/

Several further statutes completed the transition to a modern landholding system. 41/ An Act of 1846 authorized government land sales approved by the king and Privy Council; by May 1, 1850, the government had sold over 27,000 acres under these laws. The Kuleana Act discussed above also provided that portions of government land be set aside in lots of sizes ranging from one to fifty acres for purchase by natives who did not qualify for kuleana rights. The minimum price was 50 cents an acre.

By 1852, foreigners held thousands of acres of land in Hawaii. Western property concepts, which native Hawaiians did not understand because of the historic land tenure system, would facilitate westerners in taking over Hawaiian-owned lands during the next decades. 42/ Many lands were sold. Debts to westerners were often paid in land. Those landowners who attempted large-scale farming were unable to manage cash plantations, and lost property through foreclosure. 43/ Government lands also came into western hands through sales. 44/

Kuleana lands were also conveyed to westerners. Many kuleana rights were lost through harrassment by illegal diversion of water and foraging cattle from large ranches. Furthermore, some kuleana rights were forfeited because, without the gathering and foraging rights that had formerly been provided, the kuleana could not accord their owners subsistence. Kuleana that were leased to westerners were often not returned, as natural landmarks disappeared when they became part of plantations. *Kuleana* were also lost to larger surrounding land-holders by invocation of the doctrine of adverse possession. 45/ Some *kuleana* lands were simply sold.

The king's lands were freely sold by kings. Because of particular problems with these lands, including the debts of the monarchs, the Act of January 3, 1865, designated the king's lands as Crown lands and declared them inalienable, to descend to the heirs and successors of the Hawaiian crown forever. 46/

The 1890 census revealed the extent to which these forces had put land in the hands of westerners. Of a population of near 90,000, fewer than 5,000 owned land. The relatively small number of Americans and Europeans owned over one million acres. Although three out of four landowners were native Hawaiian, three out of four acres belonging to private owners were held by westerners. 47/

B. SPECIFIC PROPERTY OWNERSHIP QUESTIONS

A number of specific questions about property ownership and use that may affect native Hawaiian interests arose at the hearings of the Native Hawaiians Study Commission in January, 1982. To assure a comprehensive study, this section will identify and discuss those issues.

Status of Water and Fishpond Rights under Hawaiian Law

For the most part, waters in Hawaii are treated no differently than waters elsewhere in the United States--that is, navigable waters cannot be privately owned. In *McBryde Sugar Co., Ltd.* v. *Robinson*, 54 Haw. 174, 187 (1973), the Supreme Court of Hawaii held that "the ownership of water in natural watercourses, streams, and rivers remained in the people of Hawaii for their common good." In so ruling, the court rejected a long line of cases suggesting that all waters were owned by the holder of the *ahupua'a*. The Supreme Court's conclusion followed naturally from the fact that at least as early as 1842, interference with navigation was precluded by statute (Laws of 1842, Ch. XXVII, Statute Regulations Respecting Ships, Vessels, and Harbors (Fundamental Law, pp. 80-89)), and hence, by implication, a superior right of the sovereign over commerce and navigation was recognized.

Hawaiian law did, however, accord special protection to the right to raise and capture fish. Two categories of waters, sea fisheries and fishponds, have historically been treated as part of the land. The situation with respect to sea fisheries has changed from feudal times, but fishponds continue to be treated as fast land. The early regime has been described as follows:

> Kuapa Pond, with other Hawaiian fishponds, have always been considered to be private property by landowners and by the Hawaiian government. Most fishponds were built behind barrier beaches, such as Kuapa Pond, or immediately seaward of the land controlled by the *ali'i*, or chiefs. By imposing tabu on the taking of fish from a pond, the chief alone determined the allotment, if any, of fish, just as he distributed the other crops among his sub-chiefs, land agents, and vassals. The fishpond was thus an integral part of the Hawaiian feudal system. Chiefs

> gave land, including its fishponds, to sub-chiefs, or took it away at will. Any fishponds in conquered chiefdoms became the personal property of the conquering high chief and were treated in the same manner the high chief treated all newly subjugated lands and appurtenances. The commoner had no absolute right to fish in the ponds, nor in the sector of ocean adjacent to the chief's land--all of such rights were vested in the chiefs and ultimately in the king, alone.
>
> In 1848, King Kamehameha III pronounced the Great Mahele, or national land distribution. Any fishponds therein were allotted as part or inholding of the *ahupua'a* (a land/water unit). Titles to fishponds were recognized to the same extent and in the same manner as rights were recognized in fast land. (*United States* v. *Kaiser Aetna*, 408 F. Supp. 42 (D. Haw. 1976), *rev'd* 584 F. 2d 378 (9th Cir. 1978), *rev'd*, 444 U.S. 164 (1979).)

The correctness of description is confirmed by the fact that the Board of Commissioners to Quiet Land Titles routinely included fishponds within its land awards or patents under the Great Mahele, notwithstanding the fact that the Board was concerned solely with landed property. (See Haw. Att'y. Gen. Op. No. 1689, at 460 (1939).) So far as can be determined, fishponds retain their status as private property today.

The situation with respect to sea fisheries changed, however, upon passage of the Organic Act in 1900. In that Act, Congress repealed all prior rights in sea water fisheries by providing that "all fisheries in the sea waters of the Territory...not included in any fish pond or artificial enclosures shall be free to all citizens...subject...to vested rights" (48 U.S.C. § 506). Procedures were established to compensate those people who had vested rights in sea fisheries; if those procedures were not followed within three years, however, even rights to sea fisheries were lost.

Thus, fishponds remain privately owned today, while fisheries remain in private ownership only to the extent that the owners followed the proper procedures to obtain recognition of their rights. In all other respects, waters in Hawaii are treated the same as in the rest of the United States.

Concern was also expressed at the hearings about the rights to use of water. 48/ People in Hawaii have the right to use water under a series of rules unique to Hawaii and closely related to ancient Hawaiian land law. A landowner has present right to use the amount of water used at the time of the award of the land under the ancient landholding system. These are called "appurtenant" rights. In addition, persons receiving land rights from the king (either *ili* or *ahupua'a*), called *konohiki* rights, have the right to water for those lands equal to those of the king.

Under Hawaiian law, further rights to surface water, called "prescriptive rights," can be established, and once they are established, they also are appurtenant to the land on which the water is used. To establish a prescriptive right, certain tests, including actual, open, notorious, continuous, and hostile use for ten years under claim of right, must be met. Finally, by State statutes passed in the mid-19th century, people on lands to which the landlords have taken fee simple title have the right to drinking water and running water. On such lands, the springs, running water, and roads are free to all, except as to wells and water courses provided by individuals for their own use. These can be considered native tenant rights. 49/ Disputes over water rights can be resolved in a proceeding in State courts, according to procedures set out in Hawaiian statutes. 50/

Geothermal and Mineral Rights

The only Hawaiian State statutes relating to minerals are a strip mining law and a law providing for mineral leases on State-owned land. At least some of the patents that were issued by the kingdom of Hawaii retained the mineral rights in the government and these mineral rights are today owned by the State of Hawaii.

No State statute mentions geothermal development or geothermal rights. Native Hawaiians do appear to be concerned about geothermal development sociologically, however. The Puna Hui Ohana, an organization of the Puna Hawaiian community, has undertaken an extensive assessment of the potential social and cultural impact of geothermal development on the "aboriginal" Hawaiians of Lower Puna on the island of Hawaii. 51/ The report states:

> Early Hawaiians used the steam emanating from fissures along the rift zone for cooking and geothermally heated water ponds for bathing. Though exploratory drilling had begun in the 1960's in Puna, the first successful well wasn't discovered until 1976. Designated HGP-A (Hawaii Geothermal Project-Abbott), the well was one of the hottest in the world (675°), high pressured (555 psi), and relatively chemically benign. The successful well represented a new era of alternative energy for the State of Hawaii. For the community of Puna, the geothermal success introduced a developmental element for which it had not been prepared. 52/

The report evaluates a survey of attitudes among Lower Puna's native Hawaiian leaders. These leaders felt that the development of geothermal resources in the area would increase the in-migration to the area and result in major cultural changes. It was felt that socio-economic impacts of a growing Caucasian population would increase during geothermal development. Respondents felt that Caucasians would control the economic benefits of geothermal development, and that, unless native Hawaiians "help themselves or develop fruitful relationships with the developer, Hawaiians' benefits will be very limited at best." 53/

Other concerns included changes in interpersonal relationships, changes in the apparent transfer of political and social power from the local Japanese political establishment to the Caucasians, and a possible effect on native Hawaiians' relationship to nature, to people, and to the supernatural. Finally, native Hawaiian leaders and elders of Lower Puna believed that population and economic growth in connection with geothermal development continues to be a serious threat to the preservation of the native Hawaiian culture as it exists in Lower Puna. They "also believe that the culture can be preserved if families will learn the concepts well and pass it on to their descendants." 54/

Despite distrust of geothermal development, however, the community seems to have approved it with strong reservations. Of special concern is the manner in which surplus energy is used. The study concludes that "continued dialogue between newcomers and long time residents may promote a better understanding of economic growth consistent with concerns over environmental and social/cultural preservation." 55/ These findings suggest that to accommodate the concerns of native Hawaiians, geothermal development should be undertaken only after education and consultation with the native Hawaiians themselves.

Kuleana Land Rights

In 1850, two years after the enactment of the Great Mahele, an act was passed allowing Hawaiian native commoners to acquire fee title to the land that they had "really cultivated" under the feudal system, plus a household lot of no more than one-quarter acre. 56/ These parcels, called kuleana, could come from the lands retained by the king as Crown lands, or from Government lands, or from the lands granted to the chiefs under the Great Mahele. The commoner could receive fee title to his kuleana only if he proved his claim to the Hawaii Land Commission and paid the costs of a survey. As a result of the Kuleana Act, 8,000 commoners acquired title to land, but the holdings of these commoners totalled fewer than 30,000 acres, or less than one percent of the land.

Several reasons have been given for the failure of the commoners to acquire more land under the Kuleana Act. 57/ One is that most commoners could not afford to pay for the survey work; another is that they feared reprisals from the ali'i if they applied. A third suggested reason is that commoners could obtain title only to land they "actually cultivated." Under the previous system the commoners were entitled to use not only the land they actually cultivated but also were entitled to use common lands for growing crops and for pasturing--a right not preserved under the Kuleana Act. The "actually cultivated" lands were insufficient to support the commoner and thus the Kuleana Act meant little to him. One comment received by the Commission states that native Hawaiians also did not apply because some did not think application necessary or were unaware of the Act. Thus, the effect of the Kuleana Act, in conjunction with the Great Mahele, was the same as the enactment of the enclosure laws in England--fee title to the common lands passed to the chiefs, and the commoners did not acquire sufficient lands to support themselves.

An act of the legislature barred establishment of any kuleana claims not proved by 1854. Therefore, establishment of kuleana rights is not an issue today. However, observers have suggested that full use of many kuleana is presently disrupted by three major legal obstacles: fractionated ownership, inadequate access, and adverse possession. 58/

Fractionated ownership of many kuleana plots arises from the effects of intestate succession (passing of the property without a will). Parcels may, therefore, have a number of joint owners, with no clear responsibility for taxes or improvements. Possible remedies include one joint owner buying the interests of the others, partitioning of the kuleana, or putting title in a mutually-owned corporation, trust, or partnership with responsibility to ensure payment of taxes and land improvements.

Inadequate access is a problem for some kuleana because they are surrounded by large plantations and developments. Hawaiian law provides for easements by necessity when they are "reasonably necessary"--other access is difficult or expensive. The 1850 statute itself also provides for access. Therefore, legal tools exist for establishing better access to kuleana.

Finally, many kuleana plots have been claimed by persons other than the original grantee and his heirs by adverse possession. Adverse possession is a legal principle that permits a person who has occupied the land for a statutory period in an open, hostile, notorious, and exclusive manner to claim title to that land. In Hawaii, the statutory period from 1870 until 1898 was 20 years; in 1898 it was reduced to 10 years. In 1973 it was changed back to 20 years ([illegible] Hawaii Rev. Stats. §657-31). A 1978 law limits adverse possession for rights that mature in 1978 or thereafter to claims for real property under five acres and to claimants who have not asserted a similar defense within the last 20 years (7A Haw. Rev. Stats. §657-31.5).

Large landholders primarily have used adverse possession to absorb the enclosed kuleana of native Hawaiians. Native Hawaiians have been less able to use the doctrine to secure lands for themselves. One reason is that if a native Hawaiian remained on cultivated lands after 1850 but did not perfect kuleana rights, his tenancy was considered permissive rather than adverse, so he could not claim the land by adverse possession. To avoid problems in the future, kuleana owners could register their lands to prevent them from being taken by adverse possession, 59/ or could seek some reform in the adverse possession laws in the State. 60/ Adverse possession cannot be claimed for lands owned by the State or by the United States.

Adverse Possession

Adverse possession has been considered a problem for native Hawaiians in continuing kuleana land rights. (See discussion in the preceding section.) The benefits of the doctrine for native Hawaiians are shown in a recent decision by a Circuit Court in Hawaii. That case uses the principle to benefit smaller landholders against a large company and to help in dividing undivided common ownership interests. 61/ Every state has developed a law on adverse possession. It has been suggested that in Hawaii the concept developed because larger land owners wanted a means to increase their holdings by engulfing smaller plots owned by native Hawaiians. 62/

Genealogical Searches

During the hearings, some concern was expressed about the difficulty and expense of undertaking genealogical research in order to establish qualifications for land that must be owned by those of native Hawaiian ancestry. Three circumstances related to land ownership could give rise to the need for such research: establishing a legal interest in land that may be recognized by courts in Hawaii today; 63/ qualification under the Hawaiian Home Lands program, which provides land to those of 50 percent or more native Hawaiian blood; and qualification under legislation, if any, which could in the future be passed to compensate native Hawaiians for their land claims. Such research may be expensive; in addition, without a central site for relevant materials, the research can be difficult indeed. The State or the Office of Hawaiian Affairs may be undertaking to resolve some of these problems. 64/

LAND LAWS AND LAND RELATIONSHIPS

NOTES

1/ An excellent description of ancient land tenure is contained in Jon Chinen, The Great Mahele (Honolulu: University Press of Hawaii, 1958). One commenter, Haunani-Kay Trask, thought that the presentation in this section was so biased and inaccurate that she re-wrote it. The Commission does not adopt her alternate language, which appears in full in the Appendix of this report.

2/ Some commenters suggested that a comparison to European feudal systems leads to oversimplification. The comparison is used throughout the literature on Hawaiian tenure, however. (See also above, p. 148.)

3/ Chinen, The Great Mahele, p. 3.

4/ Change suggested by comments received from the Office of Hawaiian Affairs (OHA).

5/ This paragraph is based on Jon Chinen, The Great Mahele, and on Neil M. Levy, "Native Hawaiian Land Rights," 63 Cal. Law Review 848 (1975), pp. 848-9, and Melody K. MacKenzie, Sovereignty and Land: Honoring the Hawaiian Native Claim (OHA), pp. 1-2. See also, for general background, Ralph Kuykendall, The Hawaiian Kingdom, Vol. I, 1778-1854, "Chapter IV: The Land Revolution." One commenter submitted another helpful article: Thomas Marshall Spaulding, "The Crown Lands of Hawaii" (Univ. of Hawaii, Oct. 10, 1923).

6/ Ibid.

7/ MacKenzie, Sovereignty and Land: Honoring the Hawaiian Native Claim, p. 3.

8/ Hawaii State Dept. of Budget and Finance, Land and Water Resource Management in Hawaii (Honolulu: Hawaii Institute for Management and Analysis in Government, 1978), p. 148.

9/ Levy, p. 879; MacKenzie, p. 3.

10/ David Malo, Hawaiian Antiquities (Moolelo Hawaii) (Honolulu: Bishop Museum Press, 1951), p. 53; quoted in MacKenzie, p. 3.

11/ MacKenzie, p. 3.

12/ Levy, p. 850.

13/ MacKenzie, pp. 4-5.

14/ Levy, p. 850; MacKenzie, p. 5.

15/ Ibid.

16/ Ibid.

17/ As quoted in Kuykendall, The Hawaiian Kingdom, 1778-1854, p. 271.

18/ See generally, Levy, pp. 851-2; MacKenzie, pp. 5-7.

19/ MacKenzie, p. 7.

20/ Levy, pp. 852-853, MacKenzie, p. 7.

21/ Levy, p. 853.

22/ *Ibid.*, quoting Hawaiian Statute of 1845.

23/ *Ibid.*

24/ Levy, p. 853; MacKenzie, p. 8.

25/ *Ibid.*

26/ *Ibid.*

27/ Levy, p. 854.

28/ Levy, p. 854, quoting Hawaiian Statute of 1896.

29/ Chinen, p. 15; Kuykendall, p. 282.

30/ Kuykendall, p. 282.

31/ *Ibid.*

32/ Levy, p. 854; MacKenzie, p. 8.

33/ *Ibid.*, quoting Rules adopted by Privy Council.

34/ Levy, p. 854; MacKenzie, p. 8.

35/ *Ibid.*

36/ Levy, p. 855; MacKenzie, p. 9.

37/ *Ibid.*

38/ The division was approved by legislation. Act of June 7, 1848, referred to in Levy, p. 855. Comments received from OHA suggest that: "The Mahele of 1848 and conversion to a fee simple system did not entirely do away with this trust concept" that the king held the lands in trust for the gods and society as a whole.

39/ Levy, pp. 855-6; MacKenzie, pp. 10-11.

40/ MacKenzie, p. 10. Comments received from John Agard presented an informative discussion of *kuleana* rights and claims.

41/ Levy, p. 857; MacKenzie, pp. 11-12.

42/ Levy, p. 857.

43/ MacKenzie, p. 13.

44/ *Ibid.*

45/ Levy, p. 861.

46/ MacKenzie, pp. 13-14.

47/ *Ibid.*, pp. 14-15.

48/ One commenter stressed the importance of water rights in modern Hawaii, in part because of the problems that development can cause in terms of short water supplies.

49/ II Hutchins, *Water Rights Laws...The Nineteen Western States*, pp. 177-178 (1974). Suggested by comments received from Congressman Daniel Akaka.

50/ The material for this paragragh is drawn from Clark, *Water and Water Rights*, Vol. 5, ¶ 433, which has an extensive discussion of Hawaiian water laws.

51/ Puna Hui Ohana, *Assessment of Geothermal Development Impact on Aboriginal Hawaiians*, prepared for U.S. Department of Energy, Contract No. DE-FC03-79ET27133 (Feb. 1, 1982).

52/ *Ibid.*, p. 10.

53/ *Ibid.*, p. 119.

54/ *Ibid.*, pp. 119-121.

55/ *Ibid.*, p. 122.

56/ Act of August 6, 1850, § 1 (1850) Hawaii Laws 202 in 2 Revised Laws 1925 at 2141. See discussion above.

57/ See Levy, p. 861; MacKenzie, p. 11.

58/ An extended discussion is set forth in Levy, pp. 867-870. Congressman Daniel Akaka comments that the analysis presented here of the problems inherent in settling title to *kuleana* lands suggests that the problems are easily solved. As a substantive review of this section of the report and the authorities on which it relies shows, they are indeed difficult to solve. One commenter suggests that the right to exercise *kuleana* rights did not terminate in 1855. The comment is simply in error. See Chinen, *The Great Mahele*, pp. 30-31, which states that the Land Commission that granted deeds to such lands dissolved on March 31, 1855.

59/ See Levy, p. 870, citing a suggestion of Chief Justice William Richardson of the Hawaii Supreme Court.

60/ Such reform might include permitting adverse possession claims only if the claimant has entered the land "in good faith." Such a bill was passed by the Hawaii legislature in 1973, but vetoed by the governor. See Levy, p. 870.

61/ The extensive opinion is in *Ranch, Inc.* v. *Joseph Ahsing, et. al.*, Civil No. 1878, Findings of Fact and Conclusions of Law (Circuit Court of the Second Circuit, State of Hawaii, May 12, 1982).

62/ Previous two sentences suggested in comments received from Congressman Daniel Akaka.

63/ Addition suggested in comments received from Congressman Daniel Akaka.

64/ Many records in the native Hawaiian language are available but are not easily accessible as a resource.

Diplomatic And Congressional History: From Monarchy To Statehood

A full review of the history of the relations of the United States with Hawaii and the native Hawaiians is necessary for an evaluation of Hawaiian native claims. In Part I of this Report, that relationship is traced from ancient times to 1875. This chapter continues the story and has four parts. First, it sets forth the history of United States-Hawaiian relations from 1875 through 1893. Second, it provides an analysis of the causes of the fall of the monarchy and annexation. Because this section is particularly sensitive and crucial to this study, the Commissioners have determined that review by a professional historian with qualifications in the relevant historical period is essential. Therefore, the section on United States-Hawaiian relations between 1893 and 1900 has been prepared by William Dudley, Chief of Research in the Historical Research Branch of the Naval Historical Center, and Lt. Donna Nelson of his staff. The Naval Historical Research Branch works primarily on research requests from all sources concerning U.S. Navy history from the eighteenth into the twentieth centuries. The Branch edits and publishes multi-volume series and other works on Naval history with particular emphasis on the eighteenth and nineteenth centuries. The research staff, well-regarded in the field, assists scholars and the public by providing information and reviewing manuscripts. The Branch has an extensive library of naval and diplomatic history, and the researchers are careful, objective historians.

The third part of this chapter further analyzes annexation and compares the annexation process for Hawaii with those of other territories. The fourth part outlines the history of Hawaii's admission to statehood, and compares Hawaii's admission to the Union to that of other selected states.

A. UNITED STATES-HAWAII RELATIONSHIPS AND TREATIES, 1875 to 1893

The history of Hawaii and its relationship to the United States from ancient times to 1875 is set forth in Part I of this report (pages 147 to 167). The period from 1875 to 1893 was extremely important and eventful in the formulation of a relationship between the United States and Hawaii. During this span of time, turmoil occurred in Hawaiian politics concerning that relationship, which resulted in violent protests as well as a written treaty and agreement that cemented the bond between the two countries. The period also marked the end of an era as Hawaii moved from a royal monarchy to a republican form of government. One of the most important events occurred early in this period--the signing of the Reciprocity Treaty of 1875 between the United States and the Kingdom of Hawaii.

1875 Reciprocity Treaty

Certain pre-1875 events affected the reign of King Kalakaua, which encompassed the period from 1874 to 1891. A reciprocal trade treaty between the United States and Hawaii:

> ...had been agitated at intervals for almost thirty years. In 1855, Judge Lee had secured endorsement of such a treaty in Washington, only to have it defeated in the Senate by Louisiana sugar planters. Kamehameha IV and his successor had favored it only as a lesser evil than annexation to the United States. 1/

King Kalakaua's predecessor, Lunalilo, had also been urged to negotiate a treaty of reciprocity by influential members of the sugar planters and non-native whites, as well as by cabinet members urging closer bonds to the United States. Lunalilo had originally agreed to introduce such a treaty in the name of the Hawaiians, in return for the support of these people. He backed down, however, when native elements and white pro-Hawaiians, such as American Walter Murray Gibson, urged him to do so. 2/ The main reason for this change in Lunalilo's policy was the issue of the lease or cession of Pearl River [Harbor] to the United States.

When Lunalilo died in 1874, the pro-reciprocity factions (also known as the Missionary Party and "kingmakers") became convinced that Kalakaua would support their cause. After public statements of goodwill toward each other,

> ...there were further secret conferences between Kalakaua and the "kingmakers" at which both sides gave pledges. It was agreed that in return for their support of money and influence he would permit them to name his cabinet officers, and that he would go personally to Washington to ask for the reciprocity treaty in the name of the Hawaiian people. They in turn would not seek to lease Pearl River to the United States. 3/

King Kalakaua's rule of Hawaii was thus secured with the backing of non-native and pro-reciprocity factions. He ran in a plebiscite against Queen Emma, his chief rival for power. When the legislature confirmed his victory in that plebiscite, rioting broke out by the "Hawaii for Hawaiians" supporters of Queen Emma. The king quelled the riot with the aid of military personnel from both American and British ships harboring in Hawaiian waters at the time. The king then moved to win back the support of those who had been supporting Queen Emma, the majority of whom were on Oahu, by touring the Islands and calling for a revitalization of the native population and spirit. With this accomplished, Kalakaua turned to the matter of a reciprocity treaty with the United States. The king realized, even without the urging of his erstwhile secret backers, that "if Hawaii were to survive economically as a nation, the tariffs and discrimination against Hawaiian sugar and coffee must swiftly be removed." 4/ These "levies had strangled Hawaii's American market--had virtually closed this main and most essential pool for exports." 5/

Kalakaua sought and obtained Hawaiian legislative approval of a reciprocity treaty in 1874. He then "appointed Chief Justice E. H. Allen, former United States Consul to Hawaii, and the Honorable H. A. P. Carter, island-born American, as special Commissioners to Washington to prepare the way for a visit by His Majesty to the capital." 6/ Shortly afterwards "Kalakaua, the first king ever to visit the United States, was received as a guest of the nation by President Grant and all the members of Congress." 7/

Although the king (and prospects for a treaty) were greeted amiably, one man, Claus Spreckels, a California sugarbeet grower, singlehandedly "organized Western opposition and enlisted the support of Southern sugarcane planters and Eastern refiners in tabling the treaty." 8/ As a result of this action, Hawaii's trade slowed to a standstill and a national depression began as sugar planters slowed or stopped their shipments, hoping that the taxes on their products sent to the United

States would soon be lifted. Relief was relatively slow in coming, but: "after a year, upon President Grant's insistence, the treaty got to the Senate floor, and...Spreckels himself appeared to lobby against it...the Senate went into executive session. At the secret meeting, Secretary of State Hamilton Fish's special clause was read, which he was inserting in the treaty--and which would eventually tie Hawaii to the United States." 9/

This special clause, which is found in Article 4 of the Reciprocity Treaty, stated:

> It is agreed, on the part of his Hawaiian Majesty, that so long as this treaty shall remain in force he will not lease or otherwise dispose of or create any lien upon any port, harbor, or other territory in his dominions, or grant any special privilege or rights of use therein, to any other power...10/

In a report of the Committee on Ways and Means of the House of Representatives, "the majority frankly conceded that the main reason why the treaty should be ratified by the United States was on account of the danger of British absorption of the islands." 11/ Senator John T. Morgan of Alabama confessed as well that the treaty had political implications: "The Hawaiian treaty was negotiated for the purpose of securing political control of those islands, making them industrially and commercially, a part of the United States" 12/ as well as preventing any other power from acquiring a foothold on them.

Evidently Kalakaua had not been (or at least claimed he had not been) aware that this clause would be a part of the treaty. When the British Commissioner to Hawaii complained to the king about these exclusive rights, Kalakaua answered: "...how can I answer you about something which I have neither read nor approved?" 13/ The king, however, eventually did agree to this clause and the "treaty was approved by both the United States and Hawaiian governments in mid-1875. In August of the following year, Hawaii learned that Congress had passed the legislation necessary to put the treaty into operation. About the only Americans in the islands who were displeased...were those who believed in annexation." 14/ Pro-annexationists were concerned that the reciprocity treaty would delay annexation.

American Advisors' Influence

Several Americans and other foreigners became close advisors to the king at about this time. Claus Spreckels (who had opposed the treaty) was one of them. He saw opportunity even in his defeat and "arrived in Hawaii aboard the vessel which brought the news that the treaty had finally been approved in Washington. With his money and relentless drive Spreckels soon became the most powerful sugar man in Hawaii." Spreckels also had other interests, such as banking:

> Once Kalakaua was in his debt he was also in his grasp, and Claus Spreckels was so important to the king that anyone who opposed his various deals, including cabinet members, was soon out of office. Eventually his hold on the government and business community was broken...15/

However, Spreckels remained a force in Hawaii for many years. By 1884, he was known as "'the other king' of the Hawaiian Islands." 16/

Other private Americans, such as Walter Gibson, advised and swayed the king. 17/ Gibson, however, was pro-Hawaii to an extreme that eventually almost cost him his life at the hands of planter backers (as well as bringing the king's reign to the brink of disaster). Through intermediaries, while the king was in the United States, and again upon his return to Hawaii (during an era of prosperity brought on by the Reciprocity Treaty), Gibson had proposed the building of an empire for the king and Hawaii. Gibson told Kalakaua, "Hawaii should be the hub of the Polynesian kingdom. Sire, you are standing today on the very threshold of the door marked 'Emperor of Oceana!'" 18/ Although this project was delayed for the time being, it remained in the king's mind, refreshed often by his advisors.

To increase his influence in persuading the king to implement Hawaiian programs, Gibson needed to enter politics. In 1878, he sought a seat in the Hawaiian House of Representatives and won at the head of the King's Party. His election was despised by the "kingmakers," but hailed by the native Hawaiians whom he won to his side by his speeches of nationalism and proposals for their benefit. Almost immediately, Gibson suggested that the special favors granted to the United States under the 1875 Reciprocity Treaty be granted to Great Britain as well: "The matter of first importance to us is that the kingdom perpetuate its cordial relations with all other nations so as to guard its independence." 19/ The United States Minister to Hawaii, General J. M. Comly, "on intimate terms with the planters...at their request, reported to Washington that Gibson was a troublemaker and a dangerous man with great influence over the natives." 20/ Gibson, however, survived these threats to his tenure and became the "closest confidant of the king...In 1882, Kalakaua named Gibson as premier of the nation. For nine years this controversial figure would dominate both king and government." 21/

Celso Caesar Moreno, an Italian-American, also played a short, but critical, role in advising Kalakaua. The king had met Moreno while in the United States seeking support for the Reciprocity Treaty. Moreno had charmed the king with talk of a Polynesian empire, much like the one proposed by Walter Gibson. Moreno arrived in Hawaii in November 1879, while Gibson was away. He represented both the American government's interest for a trans-Pacific cable and the China Merchant's Steam Navigation Company's request to open commercial relations. Kalakaua was so enchanted with his visitor's reacquaintence and the revival of empire dreams that he asked Moreno to "resign your commission with this Hing Sing and become my foreign minister." 22/ The king also granted the Chinese company the subsidy it needed to establish commercial relations with Hawaii, but asked that Moreno keep his cabinet position secret until elections two months hence, when he would make the appointment public. On Gibson's return to Hawaii he recognized Moreno, but did not inform the king of his views on him. Moreno and Gibson then agreed to work toward the policy of establishing a Polynesian kingdom.

The main obstacle to this goal was the passage of "a ten-million dollar loan to finance the king's army and navy." 23/ This loan proposal brought an uproar from the planter lobby, which, through Representative Castle, charged "as surely as you vote for this measure, you hasten the end of the king's rule. We taxpayers will express our resentment in a concrete manner." 24/ Claus Spreckels also appeared at this time at the assembly and through his persuasive powers, supported by Castle, "headed off the very likely passage of the $10,000,000 loan; among the king's loyal Hawaiians, there were too many in Spreckels' employ." 25/

Shortly afterward the king told Gibson of his intentions to make Moreno premier and foreign minister. Gibson seemed to be amenable to this idea, but he was actually furious and started a compaign through the newspapers to dislodge Moreno. Raising the ire of the planters, Gibson fueled a fire that resulted in Moreno and the king calling for Hawaiians to throw out or kill the planter sympathizers and foreign interest groups on the islands. 26/

As the threat of violence increased, the king had second thoughts and met with the United States minister, General J. M. Comly. who told him: "Unless Moreno is discharged, the diplomatic corps has agreed to ask their governments to send warships and intercede to protect the lives and property of their nationals." 27/ Faced with the possibility of war, intrusion on his sovereignty and:

> ...worried by public calumny, facing an angry and agitated American minister, Kalakaua at last caught the message. Reluctantly he dismissed Moreno. In appointing a new cabinet, the king again liberally sprinkled it with faithful and dependable Americans, and he retained the indispensable Gibson. 28/

Events Leading to Cabinet Government, 1881 to 1887

Before this confrontation had barely passed, it was announced at a January 11, 1881, meeting of the cabinet that the king planned to make a world trip. The purpose of this trip was "to explore ways by which peoples from other countries could be brought to Hawaii to help reverse the population decline." 29/ Among the people Kalakaua took with him, at the insistence of the planter lobby, were Charles H. Judd and William N. Armstrong, a former New York lawyer, who the king named "Commissioner of Immigration for the expedition." 30/

Word of the expedition caused concern to United States Secretary of State James G. Blaine, who feared that Kalakaua's taste for spending and need for funds might cause him to sell part of his kingdom to a foreign country. 31/ Blaine wrote "to the American ministers in the countries the king intended to visit telling them to watch the activities of Kalakaua closely, and instructed them to inform any foreign power to which the king might offer to sell a portion of his kingdom that such a transfer would not be allowed by the United States." 32/ While visiting Italy, the king was met by the ousted Moreno. Armstrong and Judd discovered that Moreno was attempting "to get all the European countries to guarantee [the] independence of the Hawaiian Kingdom." Armstrong and Judd "warned the countries that any such action would be looked upon by America as an interference in her sphere of influence." 33/

The fears of a land sale were unrealized; the king never raised the subject on his tour. Instead, while the king admired other countries' wealth and cultures, Armstrong pushed the planters' view that only laborers were wanted in Hawaii, not a migration. The Advertiser, a pro-Hawaiian newspaper, commented: "[h]e is obviously endeavoring to hinder any migration except that of cheap plantation labor although his instructions from the king are that he is to bring families for repopulating the Islands." 34/ This point seemed to have been verified when, during the king's trip, ships arrived in Hawaii carrying "Chinese immigrants Armstrong had arranged as consignment for plantation labor;" 35/ those immigrants were found to be carrying smallpox. Even though the ships flew the yellow flag, "Board of Health Pres[illegible], A. P. Carter, yielding to pressure by merchants and planters, permitted all passengers to land." 36/ The resulting epidemic left 282 native and non-native Hawaiians dead. 37/

Shortly after Kalakaua returned to Hawaii, efforts were again undertaken by the planter lobby to eliminate Gibson from Hawaiian politics. These actions included a suit for libel against Gibson by William Armstrong for writing a letter published in a newspaper accusing Armstrong of "treason to the state." 38/ When this failed, efforts were made to defeat Gibson in the election of 1882. Complaints were made against his plans to finance projects like the completion of the royal palace, literary and cultural monuments to Hawaii, and free school education. These attacks did not succeed, either.

At this same time the Reciprocity Treaty of 1875 was nearing the end of its seven-year life. The Sugar Planter Association sent a draft of a new treaty to William Lowthian Green, Minister of Foreign Affairs, with a clause that Pearl River be ceded to the United States. Green objected to this proposal, stating: "I do not believe that the proposal is a sound one...The United States had made no demand for [Pearl River]...they wish only that no other power should control it and that is what we all want." 39/

Green's response infuriated the Association, which secretly decided to depose him. To effect this decision, the Association chose to implement a plan, discussed at the time of the 1882 elections, that would entice Walter Gibson to their side. The proposal has been described as follows:

> The planters would tell the king to dismiss his Cabinet and make Gibson Premier and Minister of Foreign Affairs. Then under a ruling already established by themselves making appointment of the rest of the Cabinet by the premier mandatory, Gibson was to permit the planters to name his colleagues--thus assuring planter control of the Government. 40/

Gibson, however, informed the king of the plan, and the king in turn secretly slipped this information to Green. Green, to aid the king, resigned, allowing Gibson to be named by the king "prime minister of all the realm." 41/ Gibson immediately named persons suitable to himself and the king to the cabinet. William Green wrote later: "in a most remarkable circumstance...Gibson has been lifted into the highest political position in the Kingdom by the exertions of his bitterest opponents." 42/ With this accomplished, the question of the Reciprocity Treaty was allowed to rest for the time, and the treaty was neither extended nor abrogated: "As to the renewal of that treaty, after seven years the king seemed to be growing indifferent if not directly hostile." 43/

Financial matters became Gibson's and Hawaii's biggest problem. The planter lobby complained of the monies being used for Hawaiian cultural programs while the treasury remained low and business interests took a back seat. Each appropriation brought renewed protests from the opposition. Representative Aholo, representing the king's interests, "reminded that those same men had been made millionaires by the treaty secured by His Majesty: 'And now they object to him enjoying any of the money!'" 44/ Even with the planters' tax money, the treasury could not replenish itself fast enough. Gibson turned to borrowing and "once again Claus Spreckels, already holding Kalakaua captive in debt, offered...a loan of $2,000,000." 45/

Through all of his dealings with the king, Spreckels had begun to move toward the Hawaiian viewpoint on issues, due to his huge financial investments and dependence on the kingdom. This alarmed the sugar planters. They had been able in 1884 to bypass Spreckels' virtual monopoly on handling their sugar exports as "some of them marketed their sugar independently in the United States and, finding they could do so successfully, all were eager to break with him." 46/ In 1883, Premier Gibson had also promised Spreckels the monopoly on transporting Chinese immigrants--a monopoly that had already been promised to an American firm. Sanford Dole, in a December 1883 meeting of soon-to-be reformists, discussed renewal of the reciprocity treaty. He stated that Gibson's act of giving Spreckels a monopoly on transporting immigrants was "likely to endanger Hawaii's treaty relations with the United States at a crucial time." 47/

Attacks on Gibson's policies continued so unceasingly that he became "the sole issue of the 1886 legislative campaign." 48/ At this time "the king had at last wearied of domination by Claus Spreckels, the Opposition effected an alliance with the king and his party, and expressed distrust in the existing Cabinet." 49/ Spreckels' hold over the king was thus finally broken, despite Gibson's protests. Two cabinets were dismissed and replaced with Gibson still as premier. Reform members had been voted into the Assembly in 1886, including Lorrin A. Thurston, who would play a major role in the formation of a republic.

Cabinet Government Formed

The reformers regarded themselves as a "morally righteous group" who finally took action against the king and Gibson for two main reasons: their attempt to create an empire, and the king's action on opium licenses. Concern focused on the "attempt to establish an Empire of Polynesia, with Kalakaua as ruler;" and on the fact that the king was "accepting money for the license to import opium from two different individuals." 50/ Although the opium license problem had far less world impact than the matter of creating a Polynesian empire, it raised the ire of the reformers from the start. Several of the reformists had gone home from the legislature on private business, whereupon "the Royalists seized the reins and by a bare majority passed an opium license bill which was signed by the king in spite of outspoken public protests." 51/ The problem was compounded when it was learned that the king had evidently accepted money for the license from more than one individual.

The other event that brought the reformers to action was the attempt to implement Gibson's dream for the king of creating a Polynesian empire. This dream had been given fresh impetus after the king's world tour, where he saw that his European fellow sovereigns had expansionist dreams as well. As a result:

> In 1880 a resolution was passed in the legislature which created a Royal Hawaiian Commissioner to represent the government to the peoples of Polynesia. Three years later the government sent copies of a policy statement to twenty-six nations stating that the various islands of Polynesia should be allowed to govern themselves and not be annexed by any major power. 52/

Although most nations disregarded this statement, Kalakaua decided in 1887 to implement his dream by sending a delegation to Samoa with the responsibility of "forming a political confederation." 53/ Germany was at the same time in the process of making Samoa a colony. When Bismarck learned of Hawaii's confederation, he sent angry messages to Washington demanding that Hawaii not interfere. The U.S. State Department took action and "Kalakaua was ordered to cease and desist from all inflammatory acts in other territories." 54/

The damage to Kalakaua had been done. The opposition had had enough of his conduct and his over-spending. The Hawaiian League was formed in December 1886, consisting of reformers and part-Hawaiians. The goals of this secret opposition group were divergent; "the conservative members simply wanted to force Gibson out of office, while the radicals wanted to overthrow the monarchy and establish a republic or seek annexation to the United States." 55/ The membership, numbering about 400, was led by ruling officers called the "Committee of Thirteen." These leaders included Sanford Dole, Lorrin Thurston, W. R. Castle, and others who "announced, in Honolulu's newspapers, that it [the Hawaiian League] intended to dethrone Kalakaua--and that it had the armed might to do so." 56/

Events Leading to the 1887 Constitution 57/

The Hawaiian League acquired the Honolulu Rifles as a military ally in 1887. The Honolulu Rifles company:

> ...was organized in the spring of 1884 by a group of men reported to be "interested in the formation of a semi-military and social organization." It had the approval of the cabinet and of Kalakaua, who suggested the name for the company, and it became one of the recognized volunteer military companies of the kingdom. It was an all-haole company, and made its first public appearance on April 26, 1885...The early enthusiasm [for it] soon waned and the Rifles attained relatively little prominence or importance until after Volney V. Ashford was elected captain on July 28, 1886. 58/

The Rifles went through various reorganizations and added members to their totals so that "at the end of June [1887], therefore, when the political crisis came to a head, the Honolulu Rifles consisted of a battalion of three companies commanded by Lieutenant Colonel Volney V. Ashford." 59/ Ashford, with his decided military bent and one of the Hawaiian League's future radicals, was a Canadian who came to Hawaii about the beginning of 1885.

It is impossible to ascertain the exact date that the Honolulu Rifles joined the Hawaiian League as their military ally. What is known is that Volney Ashford was their commander when the alliance occurred. Sanford Dole, an original member of the Hawaiian League, described the Rifles and their alliance with the League as follows: "A military organization of volunteers, young men of Honolulu, in several companies, a growth from the original Honolulu Rifles, was won to the support of the league, the commander, Colonel V. V. Ashford, becoming an enthusiastic advocate of its plans." 60/ Kuykendall states that: "in all probability it was not a mere coincidence that the rapid expansion of the Honolulu Rifles occurred simultaneously with that of the Hawaiian League." 61/

Because the Hawaiian League was a secret organization, its origins and early history can only be found in papers of its original members, who played an active part in the League. There are only three published accounts of the League, and "these accounts were written long after the events which they describe; Dole's in 1916, Ashford's in 1919, and

Thurston's in the period 1926-1930." 62/ The objective of the league,

> ...as stated in section two of its constitution, was "constitutional, representative Government, in fact as well as in form, in the Hawaiian Islands, by all necessary means." Within the League there developed a radical wing and a conservative wing. The radicals favored abolition of the monarchy and the setting up of a republic; some of them wished to go further and seek annexation to the United States. The conservatives, on the other hand, favored retention of the monarchy, but wanted a change of ministry and a drastic revision of the constitution of the kingdom; for them a republic was a last resort, in case the king refused to agree to the reforms demanded. 63/

With respect to the issue of annexation, "Volney V. Ashford, not a very reliable witness, wrote to Commissioner H. H. Blount on March 8, 1893: 'The plan of the movement of 1887...embraced the establishment of an independent republic, with the view to ultimate annexation to the United States.'"64/ But S. B. Dole, in a letter of December 23, 1893, to Minister A. S. Willis, said that the revolution of 1887 "was not an annexation movement in any sense, but tended toward an independent republic, but when it had the monarchy in its power, conservative councils prevailed..." 65/

At a later time, W. R. Castle wrote,

> There was a very strong element in the league determined to bring about annexation to the United States, but prior to the mass meeting which finally resulted in a revolution...this annexation element after a long and very bitter discussion, was defeated and the Hawaiians, meaning thereby those of Hawaiian birth, parentage and affiliation, procured a promise on the part of the league that its attempts would be confined to a reformed Hawaiian government, under sufficient guaranties to insure responsible and safe government." 66/

More important than these statements, however, is that the "strong support given to the 1887 movement by the British residents of Hawaii is good evidence that the idea of annexation was not a major factor in it." 67/

As noted previously, the opposition to the policies and actions of Kalakaua and his cabinet under Gibson motivated the formation of the Hawaiian League. The abhorrence of and opposition to Gibson and his policies is nowhere more evident than when the Hawaiian League's committee drafted and sent a set of resolutions to Kalakaua. The first resolution called for the dismissal of his present cabinet and the second specifically called for Walter M. Gibson's "dismis[sal] from each and every office held by him under the Government." 68/

The absence of any direct American involvement in the events that led to the Constitution of 1887 is fairly well documented. The management and control of the Hawaiian League was vested in a "Committee of Thirteen," whose exact make-up "was a fairly well-guarded secret; it is known however, that there were occasional changes in its composition." 69/ It appears that American nationals (that is, "American expatriates") comprised only a small part of the membership of the Committee of Thirteen since: 70/ "The feeling of dissatisfaction with the government and the desire for a change was shared by haoles of all nationalities and by some native Hawaiians." 71/ The editors of major newspapers in opposition to Kalakaua were largely British nationals. With respect to petitions that nationals sent to the American and British Ministers, there appears to be "no reason to believe that any of the governments appealed to would have ventured to interfere in the internal politics of Hawaii." 72/

H. A. P. Carter, the Hawaiian Minister in Washington, held a meeting with U.S. Secretary of State Bayard on July 6, 1887, in the United States. Carter told Bayard that:

> ...the state of affairs in Hawaii was very critical, and he wished to know what would be the action of the commander of the United States vessels that might go there, or the action of the U.S. Minister, in case the other foreign powers were to land forces for the purpose of protecting their citizens against what he called "the mob" ...that if that was done, Major Wodehouse, British Minister,... who is an aggressive man, would no doubt move promptly to the defense of his people....
>
> I [Bayard] said it was simply impossible for me to tell; that I could give no information upon a purely supposititious case...73/

Apparent American opposition (at least on the part of the U.S. Minister in Hawaii) is revealed in a letter written by Carter's son, Charles, to Bayard in 1894. He states:

> In June, 1887, my father...came to...Michigan, to attend my graduation...He was compelled to leave in the midst of the festivities because...he learned that it was the intention of the United States Government to send the warship Adams to Honolulu to protect the late King Kalakaua and his government from the anticipated Revolution predicted in the then latest despatches and he further told me that in consequence of his assurances to you, that the revolution was being conducted by his friends and would be in the best interests of Hawaii, that the orders to [U.S.] Minister Merrill and the warships at Honolulu were not to interfere with those conducting the revolt ...I have since learned from those [in] Honolulu that up to a short time before the revolt [was] consummated, Minister Merrill was indifferent if not hostile to the party of reform, but at the last moment changed in his expressions and did not interpose as had been feared...74/

Already confronted with considerable opposition to its financial policies and its "Oceana supremacy" aspirations (also known as the "Samoan policy"), in 1887, the Gibson Administration confronted an additional problem--rumors of bribery and graft concerning the granting of licenses to import opium. The Hawaiian Gazette, on May 17, 1887, printed a synopsis of twelve affidavits, including one by T. Aki, a Chinese rice-planter who failed to receive a license, even though a "present" of $75,000 had been given to the king. 75/ British Commissioner Wodehouse had informed his government five weeks earlier about these charges and stated "the truth of which...no one hardly doubts...Great indignation is felt at the transaction." 76/ Wodehouse had written even earlier: "In view of the widespread and deeply seated feeling of dissatisfaction, amounting almost to hostility, with the manner in which the Government of this country is now carried on, it seems to me that a crisis must arrive before long." 77/

Against this backdrop, U.S. Minister Merrill forwarded, on May 31, a complete set of the affidavits of Aki and others to the Secretary of State in Washington. Minister Merrill also reported:

> public feeling has been intense against the King while the daily press has been outspoken in denouncing the King, the Ministry and nearly all officials throughout the Kingdom. Among the people, foreign residents especially, there has been aroused a feeling that a change must soon occur from the highest to lowest official. Of late I have heard it remarked that no change would be satisfactory unless it was one deposing the King, changing the Constitution and adopting a republican form of government. 78/

Merrill wrote shortly afterwards though that he had "quietly counseled [to Americans] moderation and the adoption of peaceful measures as the best method of bringing about a proper administration of affairs." 79/

On June 27, 1887, the day before Kalakaua dismissed his cabinet in hopes of heading off further trouble with the opposition, he made a request to see American Minister Merrill. Kalakaua proceeded to explain to the minister that he had sent for him, "to ask your advice, unofficially but as a friend, concerning the present political situation and I desire you to acquaint me with your ideas of the cause of excitement and what is best to be done." 80/ In his report back to Washington, Merrill stated that:

> I at once informed him that there were loud complaints against the manner in which the public funds were being expended, that instead of being expended on necessary internal improvements, such as dredging the harbor, repairing roads and bridges, they were being expended in the purchase and repair of a training ship and equiping her for an unnecessary expedition, the sending of a Mission to Samoa and maintaining unnecessary agents in foreign countries.
>
> I also informed him that from my observation, of late, there was great unanimity in the demand for the removal of his present Cabinet and the substitution of men well known in the Community and in whom the people had confidence, that there was much complaint among the people on account of the belief which was prevalent that His Majesty interfered with the actions of his Cabinet in all matters directly or indirectly affecting the revenues--especially in political elections, appointments and Legislative action, therefore there was much unanimity among the taxpayers that the Cabinet should be left to act independently and made responsible to the people direct.
>
> I informed him that I believed the retention of the present Ministry was daily intensifying the people and that, since he had

> frankly asked my opinion, I thought it was better for many reasons to heed the voice of the people especially those who were paying the taxes, had accumulated wealth in the country and were directly interested.
>
> In fact, I conversed with him for about one hour upon the foregoing and kindred subjects to which he listened with much apparent interest and when I rose to leave he remarked that it was now about 11 o'clock and that I would hear of changes in the Cabinet within 12 hours.
>
> On the following morning, June 28th I received information that Mr. Gibson and all the cabinet had resigned. 81/

From the above it can be seen that Kalakaua specifically called for the meeting with American Minister Merrill to ask for his advice. Nothing in the dispatch would indicate that Kalakaua asked for more than this, or that the American minister had demanded that Kalakaua change his cabinet officials.

Of this change in the cabinet, Kuykendall writes that: "Apparently the king and Gibson believed, or at least hoped, that a change of ministry, including the latter's removal from the government, would be enough of a concession to quiet the clamor for reform." 82/ However, this belief was not correct, a Hawaiian newspaper wrote:

> ...We are not in the humor to accept any compromise that will allow an opening for a reproduction in the future of what we have had too much of in the past. A real, complete, thorough change...is what the intelligence and respectability of the country want...Moreover, there must be a positive and undeniable guarantee of its continuance. The king must be prepared to take his own proper place, and be content to reign without ruling. We want capable, responsible Ministers, not irresponsible clerks. 83/

Reports that the king was attempting to form a coalition cabinet with W. L. Green and had called out the Honolulu Rifles to protect government buildings, generated still more opposition against him. The result was a public meeting of the king's opponents on June 30. L. A. Thurston read a set of resolutions prepared by the Committee of Thirteen of the Hawaiian League that included the commitment "to the policy of securing a new constitution," as well as calling for the dismissal of Gibson and the cabinet. 84/ The Committee of Thirteen presented these resolutions to the king, requesting a reply within 24 hours. 85/

On the morning of July 1st, Colonel Ashford and the Honolulu Rifles seized a shipment of arms sent to Hawaii, thinking they were intended for the king. Later that same morning, "after the firearms seizure, Lieutenant Colonel Volney Ashford, with a squad of the Honolulu Rifles, went to Gibson's residence, took him and his son-in-law Fred Hayselden into custody...[and] threats to hang Gibson were made by Lieutenant Ashford and other noisy radicals, but any such purpose was promptly vetoed by the executive committee of the Hawaiian League." 86/ These actions by the Honolulu Rifles indicate that during the evening of June 30 and the morning of July 1, 1887, the "control of the city of Honolulu was in the hands of the Honolulu Rifles who were acting theoretically, but not always in fact, under the direction of the executive committee of the Hawaiian League." 87/

With these events of the morning of July 1 in mind, Kalakaua called for a meeting of the foreign national ministers. American Minister Merrill wrote the following about this meeting:

> About twolve o'clock...His Majesty sent for the British, French, Portuguese and Japanese Commissioners and myself to meet him at the Palace.
>
> When all had assembled His Majesty, evidently being much alarmed, stated that an armed force had recently arrested a late member of his Cabinet, Mr. Gibson, and as armed men were patrolling the streets, and not knowing what the next act might be, he desired to place the control of the affairs of the kingdom in our hands.
>
> This offer we informed him could not be accepted and it was the desire of all the representatives of other powers that he should maintain himself in authority and as he informed us that he had agreed to the wishes of the people, expressed at the Mass Meeting the day previous, and would shortly so inform the Committee in writing, we advised him to at once authorize Mr. Green, if he was the person selected, to form a Ministry when it was believed affairs would assume a quiet attitude. We immediately retired and, passing down to the central portion of the city, assured the people that the King had acceded to their request and was now forming a Ministry with Mr. Green as Premier and no necessity for further excitment existed. 88/

From the above quoted dispatch it appears evident why the foreign ministers, including Merrill, did not want to accept Kalakaua's offer of "placing control of the Kingdom in our hands." The ministers, including Merrill, wanted Kalakaua to stay in authority and were convinced there was every reason to believe things would quiet down since he had agreed to the resolutions of the committee of the Hawaiian League. 89/

Kalakaua, after this meeting, signed and sent his acceptance of the resolutions to the committee. W. L. Green then sent, and the king accepted, a list of cabinet ministers that included W. L. Green, Godfrey Brown, Lorrin A. Thurston, and Clarence W. Ashford. American Minister Merrill wrote that all, except Thurston, were of British origin, and the "principal American merchants...generally coincide in the opinion that the present Ministers are satisfactory, and favorable to the welfare of this kingdom." 90/ Merrill's dispatch concerning the approval by the American merchants of the cabinet is especially noteworthy, since it was well known that the British wanted Hawaii to remain independent and not be annexed to the United States.

The Constitution of 1887 was not actually completed and signed by Kalakaua until July 6. The "new constitution, drawn by the committee and never submitted to the people, was handed to the king and he signed it." 91/ The "bayonet constitution," as it was known (written mainly by Lorrin A. Thurston 92/), made the king more of a ceremonial leader and effectively ended much of the monarchy's power. This was "summed up in the three words" that changed Article 31 of the prevailing 1864 Constitution from "To the King belongs the Executive Power" to the new constitution Article 31 which read "To the King and the Cabinet belongs the Executive power." 93/ The new constitution also incorporated property and income requirements to vote and hold office that effectively brought control of the government within the sphere of the planters and merchants and: "In return for this drastic housecleaning, [Kalakaua] was allowed to keep his job as king." 94/

In defending the actions of the reformers in forcing the king's hand, Attorney General C. W. Ashford stated:

> If the New Constitution had been submitted to the Legislature it would simply mean that at the end of two years the king would say "This does not suit me," and kill it by absolute veto. There was only one way to proceed, and that was to arbitrarily force the King into giving us a better form of government. 95/

Reciprocity Treaty Renewal--1887

While the reformers had been in the process of revolt, the commander of the armed wing of the revolutionaries (the Honolulu Rifles), Volney Ashford, "had been selected by the Gibson administration to go to Canada to negotiate a reciprocal trade agreement with that country." 96/ This occurred only days before the reformers took over and raised questions as to whether Ashford had pocketed some of his commission pay for protection money for the king. Because of the timing, it is not clear whether the government had seriously intended to make such a treaty with Canada.

With regard to the Reciprocity Treaty between Hawaii and the United States on the other hand:

> Between 1883 and 1887, the reciprocity treaty had neither been terminated nor renewed by the United States. The Senate had, at first, been in [the] mood to scrap it, but the State Department, worried over Britain's and Germany's high interest in the Pacific, had insisted on keeping the vacuous treaty alive. Suddenly now, after Kalakaua had been ignobly driven to the corner, the United States asked for the renewal of the agreement. This time it formally demanded cession of Pearl Harbor to the United States. This time--insistently prodded by the reform cabinet--the chastened and worried king signed a new and changed state document. 97/

Prior to approval of this agreement, Secretary of State Blaine had instructed U.S. Minister Comly (in 1881) that the American Government would not permit the transfer of Hawaiian territory or sovereignty to any European power. 98/ This was followed in 1884 by a resolution from the U.S. Senate Committee on Foreign Relations that not only advised the President to extend the reciprocity treaty, but also suggested that Hawaii should be requested to permit the establishment of a "naval station for the United States in the vicinity of Honolulu." 99/ Despite this attitude on the part of the Senate, "the supplementary convention with Hawaii was not agreed to by the Senate during the continuance of President Arthur's term of office." 100/

Again on April 14, 1886, the Senate Committee on Foreign Relations made a favorable report on the supplementary treaty of December 6, 1884. 101/ The Committee also recommended an amendment that would give the United States the right to establish a naval base at Pearl Harbor. Of this recommendation one author says:

> There was little doubt that members of the Senate Committee on Foreign Relations were anxious to forestall any attempt by a European Power to secure some means of control over Hawaii. The cession of Pearl Harbor as a naval station would definitely place the United States in a position of dominance in the islands, and this very fact accounted for the reluctance of the Hawaiian Government to make a favorable response to this Senate suggestion. 102/

This concern in the United States about foreign influence was exacerbated in late 1886 by rumors that Hawaii was going to float a $2 million loan, negotiated in England, that would "pledge the public revenues of the Hawaiian Kingdom as a collateral security for that loan." 103/ The United States felt this would interfere with their preferred rights gained under the 1875 Treaty. This situation, along with hints received of attempts to negotiate a treaty between Hawaii and Canada, was enough for the United States Senate to approve a new treaty of reciprocity with Hawaii on January 10, 1887. The king quickly approved it after the reformists' revolt.

Cabinet Government and Attempts to Regain Powers of the Monarchy, 1887 to 1891 104/

The remaining years prior to the establishment of a Provisional Government in 1893 were marked with sporadic attempts by the native Hawaiians to regain some measure of their power:

> The men who carried through the Revolution of 1887 thought they had, in the constitution of that year, formulated the conditions under which monarchy could continue to exist in the Hawaiian islands...But the Hawaiian monarchy did not willingly accept the role assigned to it by the Constitution of 1887. It wanted the sovereign to be not merely a glamorous symbol of the power of the nation but the actual repository and wielder of that power as he had been in earlier years. The conflict between these two concepts of government is the most important feature of the history of the remaining years of the kingdom. 105/

Under Article 80 of the new constitution of 1887, elections were required to be held within ninety days for nobles and representatives. A campaign preceded the election, which was to be held on September 12, 1887. Meetings were held by the opposition in which objections were raised to the suffrage provisions of the constitution (Articles 59 and 62), which excluded all persons of Asiatic birth from the privilege of voting. A Hawaiian lawyer, J. M. Poepoe, a leader of the native Hawaiians, also objected to the suffrage provisions and suggested a petition to the king. 106/

Resolutions were adopted a short time later by the opposition (that is, the natives) requesting that "the new Constitution be abrogated, and the old one reestablished; that all volunteer companies be forthwith disbanded and that all the arms and ammunition in possession of citizens be taken away from them." 107/ In response to these resolutions, the king replied: "the new constitution (his constitution) was better than the old and that it enlarged rather than curtailed the civil rights of the people." 108/ The king was later reported to have made a speech in which he spoke "at some length regarding the changes that had lately taken place, advising the natives to go to the proper offices and take the oath to support the new Constitution and thereby qualify themselves to vote." 109/

The reformist (i.e., government) party won the election, and it "was clear that many of the native Hawaiians, especially on the outside islands, had voted for the reform candidates." 110/ It was noted, however, that on Oahu and in Honolulu there was strong native population opposition and that "it was the votes of foreigners, including the Portuguese, enfranchised by the new constitution, that gave the Reform Party its decisive victory." 111/

The reformers proceeded to either repeal or enact laws that further eroded the power of the king. However, Kalakaua still retained the power to veto legislation under the Constitution of 1887 and after the elections of 1887 promptly proceeded to veto five bills. One of these was "an act relating to the military forces of the kingdom (providing for a salaried brigadier general as commanding general, and transferring general supervision of the military from the minister of foreign affairs to the minister of the interior)." 112/ The Minister of Foreign Affairs at the time was Godfrey Brown, a friend of the king who had tried to disband the Honolulu Rifles and change relations between the cabinet and the king, in the king's favor. The enactment of this law was "understood to be a slap at Minister Brown." 113/ Princess Liliuokalani wrote in her diary on November 14, 1887, that: "John [her husband] and I discussed on the weakness of everyone. The King, the Court, the city wants to get rid of the Rifles and yet do not dare to. How laughable." 114/

The veto power used by Kalakaua was questioned by the legislature and a resolution was passed on December 12, 1887, that circumvented the king's vetoes. The resolution stated that the enactments "do go upon their usual and ordinary course, becoming law at the expiration of ten days from the date of presentation to the king." 115/ Thus, the five bills became laws. However, Kalakaua took his case to the Hawaiian Supreme Court and in a test case heard on February 2, 1888, by a decision of 4-to-1 the judges sustained the king's right to veto legislative acts "in pursuance of the power given him by the Constitution," which is "a personal one and does not require the advice and consent of the Cabinet." 116/

During this same period, suggestions arose that Kalakaua should abdicate in favor of his sister, Princess Liliuokalani, because of the sharp conflict between Kalakaua and his cabinet. The suggestion recurred, according to American Minister Merrill, in conversations the latter had with Ministers L. A. Thurston and Brown. Merrill reported to Bayard that Minister Brown had told him "the subject of the abdication of the King in favor of H.R.H. Princess Liliuokalani...was spoken of..." 117/ On December 20 and 23, 1887, Princess Liliuokalani was asked about the subject of taking the throne by members of the cabinet. Her answer to them, which she wrote in her diary was: "if it was particularly necessary if the King abdicated I would--if [the King] was doing wrong--I would but not till then. In the evening went and told the King." 118/

Accounts of this whole incident vary. According to Kuykendall:

> The account of this episode by Liliuokalani in her book Hawaii's Story by Hawaii's Queen, pp. 186-189, is obviously quite inaccurate. The account by Thurston in his

> Memoirs of the Hawaiian Revolution, pp. 175-179, points out some of the discrepancies between Liliuokalani's diary and her book; but he makes no mention of the discussion within the cabinet and implies that there was none. 119/

Political accommodation was achieved, however, and the differences between the king and cabinet were ended for the time being with the appointment of Jonathan Austin to replace Godfrey Brown as Minister of Foreign Affairs and the appointment of Sanford Dole to the Supreme Court. 120/

However, the idea that Liliuokalani should take over grew because native Hawaiians and their friends considered the king far too submissive in the face of the demands of the reformers. 121/ Liliuokalani held meetings with her supporters and in 1888 wrote in her diary:

> [January 16:] W. comes to W. on matter of importances--I advise them to use only respectful words and no threats but to explain the situation to him [the king] how everything and the state of the country might be changed should he abdicate if only for a year, then he should take the reigns [sic] again, and reign peaceably the rest of his life. W. and W. went to the King and after explanations he told them he would think it over...[January 17:] W. told me the result of their proposition to the King--he said wait a while--I said yes, then wait. 122/

Further information concerning this event can be found in the records of the cabinet, where Thurston, on January 18, reported "information as to a native secret society organized with a view to removing the King and putting Mrs. Dominis [Liliuokalani] in his place." 123/ The minister of foreign affairs, however, assured the king "of the support of the Cabinet against any effort to unseat him" if the king would abide by the cabinet and its advice. To this the king agreed, "but requested that no publicity be given to the matter, and to this the cabinet agreed." 124/

The king's expressed willingness to abide by the cabinet's advice did not last long. For example, the king fought the cabinet's attempt to change Hawaiian representation to London. The king's spirit of cooperation was also eroded by his fury at what he considered the cabinet's attempt to discredit him by implying he allowed the importation of liquor to sway votes. Furthermore, on October 1, 1888, the king appointed G. W. Macfarlane as his chamberlain, but the cabinet refused to recognize the appointment or pay his salary. British Commissioner Wodehouse wrote that it:

> ...would not be favorably regarded by the majority of the Foreign Residents: but would, on the contrary, tend to excite suspicion and distrust, as indicating a disposition on the part of His Majesty to recur, if possible, to a reactionary policy, Colonel Macfarlane being associated in their minds with Loans and an extravagant Financial policy. For the Cabinet it would mean increased antagonism on the part of the King, and consequently, a widening of the breach already existing between His Majesty and His Ministers. 125/

Macfarlane's salary was finally paid when the Hawaiian Supreme Court decided against the cabinet on February 26, 1890. The Court "held, that the appointment of Chamberlain was personal to His Majesty, and did not require the approval of the Cabinet" and "that the salary of the office follows the title to it." 126/

The 1888 law concerning military forces, passed over the king's veto, was an additional concern for the king. V. V. Ashford was nominated to have a controlling power in the military. The British Commissioner wrote at this time that: "Colonel Ashford has recently made himself so notorious that he has lost the support of his party, and a considerable portion of the 'Rifles.'" 127/ Despite this, Ashford won the nomination, but the king refused to sign it, remembering Ashford's part in the events leading to the 1887 Constitution. The cabinet bypassed the king once again by saying Ashford was "constructively in command" without the signed certificate. (It should be noted here that Ashford's loss of favor with the reformists eventually led him into the camp of the opposition later on.)

The series of events chronicled above created the conditions that led to the insurrection of July 30, 1889. This insurrection was led by the same Robert W. Wilcox who was considered "the principal leader of the agitation among the Hawaiians" during 1887-88. 128/ Princess Liliuokalani had befriended and supported Wilcox during this period until his departure from Hawaii for the United States in early 1888. On his return to Hawaii in April 1889, Liliuokalani again befriended Wilcox and gave him permission to live in her unoccupied Palama residence. Sometime in June, Wilcox held the first of seven meetings in which the insurrection was planned. 129/

At the first meeting (consisting of "a small group of men, all haoles") Wilcox formed a secret society called "the 'Liberal Patriotic Association,' of which Wilcox was president and the Belgian Albert Loomens was vice-president, its stated purpose being to restore the former system of government and the former rights of the king." 130/ The movement was believed to be largely financed by the Chinese and it was not until the fifth meeting that, "for the first time, native Hawaiians were admitted." 131/

The king and cabinet were warned of Wilcox's actions by both the American and British Ministers in early July. 132/ Despite this warning, British Commissioner Wodehouse wrote: "Meetings still continue to be held at the Princess's residence by Mr. Wilcox, who is purchasing arms wherever he can get them. It is strange that he is not arrested." 133/ The Hawaiian government made no arrangements to meet this crisis, in spite of its knowledge of Wilcox's activities. This inaction may be explained by American Minister Merrill's statement of August 1, 1889, that:

> ...it was recently ascertained on what seemed very reliable authority that no overt acts would be committed prior to the next general election in February, when it was thought the present ministers would be defeated at the polls. 134/

Wilcox, however, did not wait and on July 30, 1889, marched with his followers on Iolani Palace and occupied the grounds. Kalakaua was not at the palace and could not be enticed by Wilcox to return there. According to one author, Wilcox's objectives in this action were to "(1) replace the Constitution of 1887 with one similar to that of 1864; and (2) to get rid of the Reform cabinet." 135/ It is unclear what his intentions were with regard to Kalakaua. It has been suggested that Kalakaua was in sympathy with Wilcox until he learned of Wilcox's plans to depose him in favor of Liliuokalani, although she denied this. 136/ In any event, the government mobilized after learning of Wilcox's actions, and before attacking told the foreign ministers "that they desired to fully inform us of their contemplated action in the present emergency" but, at Minister Merrill's suggestion, "endeavored to communicate with Mr. Wilcox before attacking." 137/

When this attempt failed, the firing began, and Wilcox and his men eventually surrendered. During the morning, when reports of firing were heard, Minister Merrill "requested Commander Woodward to send to the legation a body of marines," which was supplemented by others later in the day to serve "as a precautionary measure in the event any assistance to preserve order might be required." Quiet ensued during the night, and "early the following morning all the men belonging to the Adams returned to the ship." 138/ Wilcox's revolt was crushed in one day, but he won some measure of victory since he "was tried by a native judge as the law required and was acquitted." 139/

As a result of the insurrection and the king's continued objection to many of the cabinet's actions, a statement was drafted by the cabinet for the king's signature prescribing that: "the powers and responsibilities of the ministers and His Majesty should be clearly understood and precisely defined." 140/ The king objected to signing the statement at first but, at a meeting with Ministers Merrill and Wodehouse, he told them he had decided to sign. British Commissioner Wodehouse wrote of this meeting:

> Before leaving His Majesty, we explained the hope that he would now accept the role of a Constitutional sovereign, and leave responsibility of Government with his Ministers; and I remarked that if the country was not satisfied with their conduct, the remedy lay in the polls in February next. 141/

From this time until the general election, further political problems occurred with rifts in the Reform Cabinet, opposition to renewal of the reciprocity treaty, and an anti-Chinese movement. Two major parties formed: the National Reform Party (on Hui Kalaiaina, headed by Robert Wilcox and supported by many haole aliens), whose goal was to revise the constitution and oppose both continued importation of Asian laborers and annexation to the United States; and the Reform Party, supporting the government. The intensity of the pre-election debate was so great that British Commissioner Wodehouse wrote: "The feeling of both parties is very bitter, and perhaps may bring about a collision." 142/

Wodehouse's fear of violence was such that the day before the election he convinced the recently-appointed American Minister Stevens to agree:

> ..."that Guards for the English and American Legations should be landed tomorrow morning from the English and American War ships now in the Port." Informed of this fact by Stevens, the cabinet ministers vigorously objected to such landing, saying that every precaution was taken to prevent disorder and that the government would provide special guards for the legations if such was requested The diplomats thereupon cancelled their plan and stated no guards would be needed. 143/

In spite of these fears, the election was peaceful. The opposition National Reform Party (or Hui Kalaiaina) won half the party seats in the Hawaiian legislature. The election was regarded as a victory by the opponents of the reformers in the government and a defeat of those who favored a policy of closer alignment with the United States. A reformer, W. D. Alexander, wrote the following concerning the election results on Oahu:

> One element, which turned the scales against us, was the strong anti-American feeling of the British and many of the Germans, to say nothing of the natives and half-whites. 144/

After the election, the National Reform Party was assisted further by the introduction of a resolution in the legislature "declaring a want of confidence in the ministry because of the dissension within the ranks." 145/ Although this resolution was not voted on, the cabinet resigned anyway and a new cabinet was appointed by the king. The new cabinet consisted of four ministers: one part-Hawaiian, one British by birth, and two born in the United States (one of whom was a personal friend of the king). 146/ Kalakaua had thus managed to remove the Reform cabinet.

Shortly afterwards, a resolution was introduced in the legislature asking whether the new cabinet would discuss the subject of a new constitution. The president of the legislature responded that the sponsor of the resolution "might as well ask the Ministers if they intended to hold a revolution." 147/ In spite of this block in the legislature, a mass meeting of citizens supporting a new constitution was held and committee meetings on the subject were subsequently held. These meetings were led by Robert W. Wilcox and others who presented a resolution to the king on August 14, 1890, calling for the "King to request the Legislature to enact a Law authorizing You to call a Convention for the purpose of drafting a suitable and equitable Constitution for Your Kingdom..." 148/

On August 15, Kalakaua, without consulting his ministers, sent a message to the legislature referring to the resolution petition and stating that it was his "Royal Pleasure that the Legislative Assembly...take such measures as would carry out the intention of the people expressed in that Petition." 149/ This message, and the bills that followed, forced the legislature to form a committee to consider the desirability of a new constitution.

As these events proceeded, American Minister Stevens wrote:

> The businessmen and the more responsible citizens of the islands are greatly disturbed. For good reasons they fear to have the country convulsed by such an issue. The English commissioner and the undersigned have been urged confidentially by the leading members of the cabinet and by the most conservative of the Legislature to counsel the King against the rash and dangerous step. 150/

Stevens and British Commissioner Wodehouse then agreed that they would talk to the king together. Of this meeting, Wodehouse wrote:

> We told the King that we came as His friends, and as the Representatives of two Powers who had the most friendly Relations with Him and that looking to the "large interests" which we had to protect, we thought that our duty to our Governments required us to point to His Majesty the disastrous

> results to Himself, and to His Kingdom which would, in our opinion attend any attempt to force through the Legislative Assembly such a measure as that recommended in His Message to that body on the 15th instant...
>
> We said, Whatever grievances Hawaiians might have to complain of under the present Constitution, and we did not say that there were none, a means for redressing them is provided by the Constitution. To go outside of that would be to get on dangerous and Revolutionary ground. The country, we said required peace, which meant prosperity. 151/

Kalakaua was so displeased with the diplomats' comments, particularly those of Wodehouse, that he asked that Wodehouse be replaced by "some person more lively to the British interest." 152/

The movement for a constitutional convention continued to the point where Robert Wilcox stated in the legislature on September 9, 1890, that:

> There was danger of another revolution and the streets being made sticky with blood, if the wishes of the people were to be persistently thwarted as at present. It would be a worse revolution than that of 1887, and some of the finest buildings in Honolulu would be blown up. He would take a hand in it himself... 153/

After this speech British Commissioner Wodehouse wrote: "My colleague [Stevens] and I, have, under these circumstances, called upon the commanders of our National Ships to hold themselves in readiness for any emergency." 154/ On September 25, 1890, Stevens wrote: "There are threats of attempts to constrain the Legislature by intimidation and violence. But at present writing it looks like a pacific solution by the approval of some Constitutional amendments..." 155/ The events did not turn violent, however, and relative calm ensued after the legislative committee considering the bill for a constitutional convention rejected it. Opponents of the bill believed that pending proposed constitutional amendments would "correct all the really objectionable features of the constitution." 156/

On January 20, 1891, King Kalakaua died and Princess Liliuokalani became queen. The queen immediately moved against the reformers by appointing cabinet members of her choice and giving Kalakaua a large state funeral. She also developed a plan (initially secret) for a new constitution for Hawaii. This would eliminate the "bayonet" constitution of 1887 and restore control of Hawaii to the monarchy and the natives.

Because many of Liliuokalani's policies were opposed to the goals of the reformers, "there was a marked increase in annexation sentiment" during 1891 and 1892. 157/ This sentiment contributed to the fall of the monarchy and the formation of the Provisional Government.

Annexation Movements: 1891 and 1892

When Liliuokalani ascended the throne, Hawaii was "in the beginning of an economic depression brought on by the recent change in the tariff law of the United States." 158/ Although the McKinley Tariff Act raising the tariff on Hawaiian sugar imported into the United States did not go into effect until April 1, 1891, an anticipatory reaction was already occurring in Hawaii.

Several courses of action for Hawaii were suggested in response to this new development. These included actions to: (1) "abrogate the reciprocity treaty with the United States and then make a similar agreement with one or more of the British colonies in the Pacific;" or, (2) "seek to revise the reciprocity treaty in order to make it permanent...and provide for complete free trade." 159/ As it turned out, due to various obstacles, neither one of these courses was to become a reality.

The second approach, revision of the treaty, was the most desirable for Hawaii and a treaty was actually drafted. This draft treaty included the cession of Pearl Harbor, along with complete free trade, and was submitted to President Harrison, who took no action on it. On February 10, 1892, the Hawaiian Special Envoy to the United States, Mott Smith, learned that "the President would not submit this treaty...to the Senate" and that "his chief objection is that the policy of his administration is pledged to 'high protection,' while this treaty requires him to recommend 'free trade.'" 160/

The draft treaty caused a debate in Hawaii that lasted long after the original treaty attempt had failed. On July 9, 1892, Robert W. Wilcox (the leader of the 1889 rebellion) introduced a resolution in the legislature that called for a committee to be sent to the United States to "ascertain the disposition of the United States Government in regard to Pearl Harbor and in regard to some reparation due this country for the injury inflicted by the McKinley Bill, and also to negotiate for the cession of Pearl Harbor for adequate compensation, and in general to use their best efforts to obtain closer relations with that country." 161/ Several days later Wilcox withdrew the resolution after native Hawaiians protested the request, although he indicated it was withdrawn because it could not be discussed while the ministers retained their places in the cabinet. 162/ Wilcox, however, again brought up the cession of Pearl Harbor in August 1892. This time he "hinted to the natives that he favored annexation to the United States rather than to see the country go down to destruction through the bad guidance of an unpopular Ministry." 163/

In the minds of some, an additional course of action was open to Hawaii to ease her economic problems--annexation to the United States. 164/ L. A. Thurston, in an editorial of 1884, had written:

> For many years there have been a few residents here who have desired the annexation of these Islands to the United States. Their reasons have been various; some believing that under that great Government the permanent interests of the Islands would be best secured; others that more money could thus be made, and some have always been impressed with the instability and insecurity of the Hawaiian Government. But the majority of intelligent foreigners, and especially those born here of foreign parents, have contended for the independence of the Government. They have believed it to be far more for the interests of the native race that they should maintain an independent Goverment and a distinctive national existence...It is well known that the United States Government does not desire the annexation of these Islands; the accession of foreign territory is contrary to its policy; but it is certain that Government will not permit its interests here to be sacrificed, nor permit any other foreign Government to control here. When these Islands cease to be self-governing the United States Government will take possession. 165/

During 1891 and 1892, annexation sentiment increased due to Liliuokalani's policies and the defeat of the Reform Party in the 1890 elections. This defeat had discouraged many who saw the Reform Party as the only vehicle to ensure a stable government. They now looked toward the possibility of annexation as a solution. One of those who began to consider the possibility of annexation with increasing favor was L. A. Thurston, who by "1892 was an ardent annexationist." 166/ However, "up to the end of 1891 there was, it is believed, no organized group seeking to promote annexation to the United States." 167/

The elections of February 1892 were complicated by an increase in the number of political parties from two in 1890 (the Reform Party and the National Reform Party) to four in 1892. The Liberal Party, which included Wilcox and many followers of the National Reform Party, was opposed by three smaller parties, including the Reform Party and the National Reform Party. The Liberal Party slogan was "Hawaii for Hawaiians," 168/ and its goal was a republican form of government:

> The Liberal Party was the party of the opposition; its campaign orators continued the attack on the cabinet, the queen, and Marshal C. B. Wilson [an influential advisor to the queen] that had been started by [John E.] Bush and Wilcox in the spring of 1891, and these leaders continued to preach the doctrine of republicanism which, said Bush, was gaining favor among the Hawaiians because of the "present rotten condition of officialdom" in the kingdom. a/ In one speech Wilcox explained that "in times gone by he had been a staunch royalist, today he was in the same degree a Republican, he was a strong believer in freedom and justice and was in favor of a government of the people, by the people and for the people." b/ On another occasion he spoke of the "utter misgovernment of affairs at home. Ignorant fools are conducting the Government. A 'blacksmith' [Wilson] is very influential with the Queen...He is too ignorant a man to be even trusted with any responsible Government position. It is a standing disgrace to the Hawaiian nation...We must all be loyal Hawaiians, and tell the Queen that her present Government is an injustice and a disgrace to the nation. We must not flatter her." c/ "To flatter the Queen would be to inflate her with her own importance, which would cause disastrous results." 169/

Neither the Liberal Party nor any of the other parties was able to win a majority of seats in the legislature in the 1892 election. The election results thus left the legislature in a weakened state. John E. Bush, a Liberal Party leader, wrote: "The practical defeat of the Liberal Party is the lost opportunity of the Hawaiians...It looks now as though the only hope for equal rights in this country lies in--shall we say it--annexation." 170/

During the last year of the Hawaiian monarchy the pace of events became more heated and feverish. Between the election of February 3, 1892, and the meeting of the legislature on May 28, 1892, two major developments occurred, "one overt and one secret, [that] were important elements of what Minister Stevens described as a feverish political situation: (1) an antigovernment agitation and conspiracy fomented by certain leaders of the Liberal Party, and (2) the formation and activities of an annexation club." 171/

The Government put down the Liberal Party conspiracy by arresting many of its leaders when the queen's marshal, "Wilson learned of the secret Hawaiian Patriotic League [and] succeeded in infiltrating it with spies who supplied him with information about the doings of the conspirators." 172/ Kuykendall points out that, given these events, it seemed "that the United States naval force in Honolulu Harbor was in fact affording protection to the queen's government against the menace of possible revolutionary actions by the Liberal faction." 173/

The second major development was the formation of the Annexation Club. According to Kuykendall, "The sole source of information about the origin and activities of the Annexation Club, a secret one--is Lorrin A. Thurston." 174/ Thurston indicated that the date of the Club's formation was January or February 1892. The object of the club "was not to promote annexation, but to be ready to act quickly and intelligently, should Liliuokalani precipitate the necessity by some move against the Constitution, tending to revert to absolutism or anything of the nature." 175/ The organization, which kept no records, was small--never more than seventeen members, thirteen of whom were, on January 14, 1893, appointed to a Committee of Safety that planned and directed the overthrow of the monarchy. 176/ The club members felt that they ought to "know beforehand the probable attitude of the United States Government toward annexing Hawaii," 177/ and Thurston visited Washington in order to get that information. Of his trip, Thurston wrote:

> Dr. Mott Smith [special emissary of the Hawaiian Government sent to Washington to negotiate a free-trade treaty with the United States] volunteered to introduce me to the principal authorities, and was present when I met Senator Cushman K. Davis, Republican member of the foreign relations committee of the Republican Senate, and Representative James H. Blount, Democratic chairman of the like committee of the Democratic House of Representatives. My interview with Mr. Blount took place in his committee room at the Capitol, and lasted about a half-hour.
>
> When I had finished my statement, he said: I suppose that you have come to me because you want to know, in case action becomes necessary in Honolulu, what the attitude of the Democratic House of Representatives may be, if the matter comes up in Washington. I replied that he had stated the case exactly. He went on: I do not know very much about this subject, but I can tell you this: if the question does come up, it will be treated here as a national one, and not as a Democratic [one]. I advise you to see Mr. Blaine, secretary of state, and see what he thinks. I explained that I intended to see Mr. Blaine, but that he was ill, and I had not seen him, although I hoped to meet him soon. All right, said Mr. Blount. You do so, and let me know what he says. I agreed.
>
> A few days afterward, I called at the State Department and presented James G. Blaine a letter of introduction from John L. Stevens, United States minister to Hawaii. I made a full explanation to Mr. Blaine: we had no intention of precipitating action in Honolulu but conditions had gone so far that we felt the maintenance of peace to be impossible; we believed

that Liliuokalani was likely at any time to attempt the promulgation of a new constitution. If she tended toward absolutism, we proposed to seek annexation to the United States, provided it would entertain the proposal. A nucleus had been formed in Honolulu to bring the plan to a focus, should occasion arise; that nucleus had sent me to Washington to ascertain the attitude of the authorities there. Mr. Blaine asked: Have you talked to anyone else in Washington on this subject? I answered that I had, mentioning Senator Davis and Mr. Blount.

Mr. Blaine said that he considered the subject of the utmost importance, and continued: "I am somewhat unwell, but I wish you would call on B. F. Tracy, secretary of the navy, and tell him what you have told me, and say to him that I think you should see the President. Do not see Mr. Blount again. I will attend to him. Come to me after you have seen President Harrison." In accordance with the request, I immediately met Secretary Tracy and reported my conversation with Mr. Blaine. Said Mr. Tracy: I do not know whether you had better see the President or not. But come with me, and we will learn what he thinks. We went to the White House. Mr. Tracy had me wait in an outer room while he spoke with the President. After about a half-hour, the secretary reappeared and beckoned me to accompany him outdoors. Then he spoke: I have explained fully to the President what you have said to me, and has this to say to you: the President does not think he should see you, but he authorizes me to say to you that, if conditions in Hawaii compel you people to act as you have indicated, and you come to Washington with an annexation proposition, you will find an exceedingly sympathetic administration here. That was all I wanted to know. 178/

Before he left the United States, Thurston wrote a letter to Secretary of State Blaine concerning the subject of "Annexation of Hawaii to the United States." Thurston not only described the current situation in Hawaii, but also the plan of action that would be pursued by the Annexation Club. This plan included: "securing the appointment of a Cabinet at the Islands, committed to annexation, and educating the people in favor of annexation; then, if sentiment in Washington was favorable when Congress assembled in December, proceeding to bring about annexation by action of the Hawaiian legislature." 179/ This letter, coupled with United States Minister Stevens' pro-annexation views, leaves little question that the United States Government became increasingly aware of impending annexation movements in Hawaii during 1892.

B. THE FALL OF THE MONARCHY AND ANNEXATION OF HAWAII*

Memorandum from William Dudley, Research Branch, Naval Historical Center, to Carol E. Dinkins, Chair, Native Hawaiians Study Commission Committee on Federal, State, and Local Relationships (Dated March 2, 1983)

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*/ This section of the Report was prepared by William Dudley and Lt. Donna Nelson of the Naval Historical Center. See above, page 265.

Subject: Public Comments on Draft Report of Findings of the Native Hawaiians Study Commission

1. This replies to a request from your office that we respond to public comments to Part II.B., "The Fall of the Monarchy and Annexation of Hawaii," which was researched and written in this office at your request.

2. The written comments that you forwarded to this office were contained in letters and lengthy memoranda from Native Hawaiians or those who share their views. The general tenor of these comments was a critical reaction to the content and sources used in researching and writing the sub-chapter.

3. When your request was received last May, we responded within the guidelines of that request, namely: that within six to eight weeks we produce a 15 to 20 page, double-spaced report, footnoted, on "what forces caused the monarchy to fall and what forces led to the annexation of Hawaii to the United States as a Territory in 1898." The request also stated that "reliance on secondary sources will be sufficient for our review."

4. The account we produced was essentially a summary based on leading secondary works and a limited number of primary sources. Ralph Kuykendall's The Hawaiian Kingdom: The Kalakaua Dynasty (1967) was chosen as a principal source, for it is a well-balanced interpretation, based on multi-archival research with careful annotations. Printed primary sources such as the multi-volume Blount report, the Morgan report, and Lt. Lucien Young's account were consulted but were used carefully and sparingly, with their biases taken into consideration.

5. The types of critical comments varied widely. Several respondents sent accounts they considered more accurate. These statements were lengthy and detailed but the facts presented did not contradict those in our account. The response from the Hawaiian State Statistician remarked that "...the demographic, statistical and historical aspects of the study have been handled reasonably well, reflecting a satisfactory degree of competence and objectivity." The most cogent criticisms argued that primary source research in both public and private archives was much to be preferred to reliance on secondary sources, and that several questions regarding the fall of the monarchy and annexation should have been treated in greater depth and detail. I concur with these sentiments. Primary sources are to be preferred in the research and writing of any historical account. Ideally, the scholar would travel to all archival institutions holding pertinent collections to see if any new facts or fresh perspectives could be found. Unfortunately, the six to eight week time limit, the lack of funds for travel, and the fact that this work was assumed for completion in addition to other work normally done by this office precluded any more extensive treatment.

6. Some commentators objected to the fact that federal historians were asked to provide research on a subject which involved the actions of the U.S. Government and its armed forces. The presumption here is that government historians could not be unbiased in the matter. Our report strove for objectivity and made no attempt to ignore or minimize the parts played by the U.S. Navy, Marine Corps, or the American Minister to Hawaii, John L. Stevens. It is conceded, however, that it would have been more

appropriate had the Commission requested this work be undertaken by a non-governmental historian so that there might have been no question about the appearance or substance of objectivity. I recommend strongly that if the Commission feels additional work is needed with regard to the revision, amendment or re-writing of this chapter, it should be done by either an academic or an independent historian who has no administrative connection with the U.S. Government.

Respectfully yours,

(signed) William S. Dudley

Setting the Stage

To summarize the previous section, the fall of the monarchy in 1893 was primarily the result of a power struggle between supporters of the monarchy, a group largely composed of persons of Hawaiian ancestry, and the monied haole group, or "foreigners," persons of American and European birth or descent. The Kamehamehas had been the last strong monarchs of Hawaii. In the latter part of the nineteenth century, as the kings weakened, the haole population gained in political influence and economic power. This set the scene for the ensuing conflict.

The Constitution of 1887 was a key in the changing scope of Hawaiian politics (see above, page 277). Major changes were that: although the king retained his right to appoint the cabinet, cabinet members could be removed only with the approval of the legislature; the king no longer had an absolute veto, which could now be over-ridden by a two-thirds majority in the legislature; the House of Nobles was no longer appointed by the king but became elective offices; both nobles and legislators had to meet residence and property requirements, more stringent for the nobles; but the most significant change was in the voting requirements. The vote was extended to all male residents of Hawaiian, American, or European birth or descent who met certain property, educational, and residence requirements and who took an oath to support the Constitution and laws. This extended the vote to foreign residents and naturalized citizens as well as to native Hawaiians. The property requirements for eligibility to vote for representatives were modest; but to vote for nobles, one was required to own "taxable property in this country of the value of not less than three thousand dollars over and above all encumbrances, or shall have received an income of not less than six hundred dollars during the next year preceding his registration for such election." 180/ This last requirement had the effect of placing the control of the House of Nobles (and thus the legislature) in the hands of the Reform Party, which was made up largely of Hawaiian-born Americans and Europeans, and resident foreigners. This group held most of the land and a majority of the businesses of the country. They could, therefore, meet the property requirements, while most of the native Hawaiians were disenfranchised.

In 1889, an attempt was made by a group led by Robert W. Wilcox, a

European-educated Hawaiian, to overturn the Constitution of 1887 by force (see above, page 282). The aim was to return to a constitution similar to that of 1864 in which the king had had a great deal more power. The insurrection was quelled, but this was the beginning of almost continuous political unrest. At this time the Hui Kalaiaina, a native political organization whose main objective was a restoration of the pre-1887 constitutional system, was formed. This party gained in strength as the Reform Party was weakened by internal dissension. In the elections of 1890 the Reform Party became the minority party, and its cabinet was forced out of office.

Once again, a move was made to revise the constitution, this time with the open support of King Kalakaua. This was naturally opposed by those who had gained so much under the new constitution. Rear Admiral George Brown, commanding the Pacific Squadron, described the situation in a letter to Secretary of the Navy B. F. Tracy, dated July 29, 1890:

> Sir: In reference to political matters in the Hawaiian Islands I have to report that since my last communication on the subject, No. 228 of June 26, 1890, many events have transpired in Honolulu which indicate that serious trouble, if not a revolution, is imminent, at no distant day. The Legislature now in session will not probably adjourn before the middle of September next, and until that time the discordant element in the National Reform Party (Hui Kalaiaina), as represented by several natives and half-castes in the Legislature, who were prominent leaders in the attempted revolution of July, 1889, will not cease their revolutionary discussions and movements either in the Legislature or in public meetings on the streets. Their efforts are now being made in favor of a constitutional convention, with a view of revising the present constitution, which was adopted in 1887...The presence of the force under my command has a marked influence on the would-be revolutionists, as while they are aware that I am here to protect the persons and properties of citizens of the United States, the general belief among them is that I will, in the event of a revolution, take a more decided stand in the interests of those opposed to them than I might be warranted in doing. The white residents and natives and half-castes who stand ready to oppose the revolutionists have every confidence in their ability to do so successfully, and take great comfort in the knowledge of an adequate naval force being present...181/

The king was persuaded to back down from his position favoring a new constitution, largely through the joint efforts of the American and British ministers (see above, page 285). Crisis was averted in this instance, but the events of 1893, almost parallel to the situation described by Brown, had a markedly different outcome.

Liliuokalani Ascends the Throne

The king's death in 1891 and the passage of the McKinley Tariff in the United States Congress later that year led to a new time of trouble in the kingdom. The new Queen Liliuokalani's reign was marked by an economic depression brought about by the McKinley Tariff. Rear Admiral Brown reported on August 17, 1892: "The great depression in business matters in the Islands is being felt by all classes. Importations from the United States are extremely light and many vessels leave here in ballast..." 182/

Another major problem was the struggle for control of the cabinet. After the 1892 election, no one party had enough members to claim a clear majority (see above, page 287.) Four successful want-of-confidence resolutions were supported by various combinations of three parties (Reform, National Reform, and Liberal) in the first eight months of the session. Little business was accomplished until November, when a strong moderate cabinet led by George Wilcox was formed as a compromise. It appeared that some stability had at last been achieved.

A number of bills had been postponed during the turmoil. Among the most controversial were the Lottery Bill, the Opium Licensing Bill, and a bill calling for a new constitutional convention. The queen had reluctantly appointed this cabinet, and now a widening rift began to appear between the queen and her ministers. The first two above-mentioned pieces of legislation were supported by the queen, but vigorously opposed by her cabinet. Other clashes worsened the situation. By January 4, 1893, the queen's supporters felt confident enough to propose yet another want-of-confidence resolution. The measure was defeated by only a narrow margin. On January 10, the Lottery Bill passed over the opposition of the cabinet, and taking this as a sign, once again a want-of-confidence vote was called. In the ensuing debate, the feelings of the legislators were summed up by Representative Kamauoha:

> The Cabinet were honest and able men. There was no doubt that they possessed the confidence of the Community. They were men of integrity, who would be able to secure funds to carry on the government. But would they carry out the wishes of the Queen? Would they do what the Queen and the Hawaiian people wanted in regard to the Lottery, the Constitutional Convention, etc.? Would they do as the Queen wanted them to do? 183/

The resolution passed. A new cabinet was appointed by the queen, and on January 14, 1893, the legislature was prorogued.

Events of January, 1893

Constitutional reform had been a major campaign issue in the elections of February 1892; indeed it was a primary plank in the platform of the Liberal Party. Yet the resolution had failed to pass in the legislature of 1892, having been set aside while more pressing matters were attended to. Liliuokalani, as had Kalakaua, had felt severely hampered by the restrictions placed on the monarchy by the present constitution. Now, feeling that she had the will of the people and the support of her new cabinet, the queen decided to take matters into her own hands.

Since early 1892, she had been quietly making plans to revise the constitution. A draft had been prepared in October 1892 that generally reverted to the earlier constitution of 1864, but which gave the monarchy even more control. The queen had made no secret of her intentions. A copy of the document had been submitted to Attorney General Arthur Peterson for his recommendations. All of the cabinet members were aware of its existence, and at least two had promised their support prior to their appointments. 184/

With this in view, Liliuokalani planned to promulgate the new constitution immediately following prorogation of the legislature. Members of the diplomatic community, the legislature, and other dignitaries were invited to the ceremony. Yet when it came down to signing their names and thus attesting their support, the cabinet refused. The queen later wrote, "They had led me out to the edge of a precipice, and now were leaving me to take the step alone. It was humiliating." 185/

The queen then reluctantly decided to wait until she had more official support; however, the news had spread. The members of the Annexationist Club, a secret organization that had formed during the last constitutional crisis in 1890 (see above, page 288), quickly met and decided the time had come to act on their beliefs. A Committee of Safety was formed under the leadership of Henry E. Cooper. All members of this committee were members of the Annexationist Club with the exception of George Wilcox, the former prime minister. Lorrin Thurston, one of the leaders of the club, proposed as the first order of business a resolution "that it is the sense of this meeting that the solution of the present situation is annexation to the United States." 186/ All but Wilcox approved the motion. Wilcox quietly resigned and returned to his home on Kauai.

The first action of the committee was to send three men, Thurston, W. C. Wilder, and H. F. Glade, to call upon the American Minister, John L. Stevens, to learn if "assistance could be afforded by the United States forces for the protection of life and property, the unanimous sentiment and feeling being that life and property were in danger." 187/ Lorrin Thurston reported back to the Committee that Stevens:

> ...had said that the United States troops on board the Boston would be ready to land any moment to prevent the destruction of American life and property, and in regard to the matter of establishing a Provisional Government they of course recognize the existing government whatever it might be. 188/

Thurston also reported that when asked what requirements there were for being the "existing government" in Stevens' eyes, Stevens informed him that whatever government was "actually in possession of the Government building, the executive departments and archives, and in possession of the city, that was a de facto government proclaiming itself a government, would necessarily have to be recognized." 189/

Stevens' role in the Hawaiian revolution has always been controversial. He had held strong annexationist views from the beginning, and this was well known in the Hawaiian community. While he did not openly oppose the queen, from such statements as that quoted above it was obvious that he would not oppose a change. Stevens was careful not to offer aid, but he did promise to recognize any government that the committee might be able to establish. Other accounts indicate that Stevens had promised to support the Provisional Government with U.S. troops. There is some doubt of the validity of this assertion, as will be seen below. However, the approval of the American Minister, tacit or otherwise, was enough to bolster the Committee of Safety and to harden their resolve. By the evening of the 14th of January, recruiting and arming of a revolutionary force had begun and plans were under way to take over the government.

The royal government was aware of the Committee and of its purpose as early as Sunday, January 15th, yet nothing was done to break up the movement. It was generally believed by members of the cabinet that Stevens had indeed promised support and this was perhaps sufficient to dissuade them from any direct action. However, the government had a force of five hundred men, ten Gatling guns, and twelve pieces of artillery at its disposal. A landing party from the Boston could consist of at most one hundred seventy-five men and the Committee of Safety was assured of only about seventy-five men at that time. For whatever reasons, this day was spent in debate rather than action. 190/

On Sunday evening two cabinet members called on Stevens to find out if the rumors were true. Stevens made it clear to them that he would not support the queen in a conflict. That same day, members of the Committee of Safety also called on Stevens. Stevens reiterated "that while he would call for the United States troops to protect life and property, he could not recognize any government until actually established." He repeated that the troops when landed would not take sides with either party, but would protect American life and property. 191/

On Monday, January 16, a mass meeting was held by the Committee to garner support for their aims. On that day also, in an attempt to defuse the situation, Liliuokalani made a public announcement that no new constitution would be promulgated for the time being. Meanwhile, the Committee sent the following letter to John Stevens:

> We, the undersigned, citizens and residents of Honolulu, respectfully represent that, in view of recent public events in this kingdom, culminating in the revolutionary acts of Queen Liliuokalani on Saturday last, the public safety is menaced and lives and property are in peril, and we appeal to you and the United States forces at your command for assistance. The Queen, with the aid of armed force and accompanied by threats of violence and bloodshed from those with whom she was acting, attempted to proclaim a new constitution; and while prevented for the time from accomplishing her object, declared publicly that she would only defer her action. This conduct and action was upon an occasion and under circumstance[s] which have created general alarm and terror. We are unable to protect ourselves without aid and, therefore, pray for the protection of the United States forces. 192/

This letter was delivered some time in the early afternoon. By four o'clock, following the mass meeting, the Committee decided that circumstances were such that any action on their part would have to wait until the next day. As it would be beneficial to their objectives to be established and recognized before any American troops landed, two men called upon Stevens and requested that the landing party be detained until the next day. At this point, it seems obvious that Stevens was trying to avoid the appearance of complicity because he informed them that arrangements had already been made and that there would be no alterations in the plans. The U.S. troops landed at five o'clock that evening.

Stevens had gone aboard the Boston at three o'clock with the following request: "In view of existing critical circumstances in Honolulu, indicating an inadequate legal force, I request you to land Marines and Sailors from the ship under your command for the protection of the United States Legation, and the United States Consulate and to secure the safety of American life and property." 193/

Captain Gilbert C. Wiltse, commanding officer of the Boston, had been watching the situation closely since his return to Honolulu on the 14th of January. (The ship, with Stevens and his daughter as passengers, had been at gunnery practice off Hilo from January 4 to January 14.) When Stevens arrived, he found that preparations had already been made. A landing force had been organized and armed, and an order couched in terms of standard Navy policy had been issued to Lieutenant Commander Swinburn, who was to lead the force:

> ...You will take command of the Battalion and land in Honolulu for the purpose of protecting our Legation, Consulate, and the lives and property of American Citizens, and to assist in preserving public order. Great prudence must be exercised by both officers and men, and no action taken that is not fully warranted by the condition of affairs, and by the conduct of those who may be inimical to the treaty rights of American Citizens...194/

The landing force consisted of "one company of Marines, 30 men, under command of Lieut. H. L. Draper, U.S.M.C., two companies of Sailors, the first consisting of 34 men under command of Lieut. Charles Laird,...and the second consisting of 35 men, under command of Lieut. Dewitt Coffman...and two pieces of artillery, one short gatling and one 37 m/m H.R.C. (Hotchkiss Revolving Cannon)..." 195/

The Marines were detached to guard the Legation and Consulate, while the remainder of the men halted near the Palace until a place to bivouac could be found. At about 9:30 p.m., Arion Hall was obtained. This has been another point of controversy concerning the objectives of the landing force. Arion Hall was some distance from the concentration of American property, yet it was located immediately between the Government Building and the Palace. This would be an ideal location from which to participate in any conflict between the two forces. Though not one hostile move was made by the American forces, there is no doubt that their presence provided a psychological support to the revolutionists. As has been noted above, the cabinet and the queen were convinced that the American Minister and forces from the Boston were in support of the rebelling faction. No matter what their purpose, the mere presence of this armed force served to demoralize the monarchists and to dampen any threat of violence.

A protest was lodged by the local government, but Stevens refused to recall the men. At this point, Monday evening, the Committee of Safety still had not formalized its plans. Sanford Dole, an Associate Judge of the Supreme Court, and generally well respected by all factions, was invited to head the new government that was planned. He was not a member of the Committee of Safety and was not in favor of overthrowing the monarchy or of annexation. His arguments were for deposing the queen and replacing her with a regency in favor of Princess Kaiulani, the queen's designated heir. After much debate, argument, and soul-searching, Dole finally agreed to accept the position the next day.

By Tuesday morning the queen and her cabinet had positive information concerning the Committee of Safety and their aims, as some of the cabinet members had been invited to join the Executive Council of the Committee. Still they made no move to halt the proposed revolution. Dr. William Alexander, an observer of the events, concluded:

> To judge from their conduct, the Queen's Cabinet was overawed by the unanimity and determination of the foreign community, and probably had an exaggerated idea of the force at the command of the Committee of Safety. They shrank from the responsibility of causing fruitless bloodshed, and sought a valid excuse for inaction, which they thought they found in the presence of the United States troops on shore, and in the well known sympathy of the American Minister with the opposition. 196/

By 2:30 on the afternoon of the 17th, the Committee had completed its preparations and began moving toward its objectives. Within fifteen minutes, the Committee of Safety had quietly taken control of the Government Building, which was virtually empty when they arrived. A proclamation was read from the steps by H. E. Cooper, designated vice-president of the new government, and the first phase of the revolution was accomplished as the Committee of Safety became the Provisional Government.

The new Provisional Government moved into the building and got down to work. Martial law was declared, all saloons were ordered to be closed, and messengers were sent to the diplomatic community to inform them of the change in government and to request recognition. Between four and five o'clock, a message was delivered to Dole from Stevens:

> A Provisional Government having been duly constituted in the place of the recent Government of Queen Liliuokalani and said Provisional Government being in full possession of the Government Building, the Archives and the Treasury and in control of the capital of the Hawaiian Islands, I hereby recognize said Provisional Goverment as the de facto government of the Hawaiian Islands. 197/

Other foreign ministers followed suit within days. Armed with Stevens' support, members of the Provisional Government called on the queen and demanded her resignation. After much protest, the queen yielded and signed the following document:

> I, Liliuokalani, by the Grace of God and under the Constitution of the Kingdom, Queen, do hereby solemnly protest against any and all acts done against myself and the constitutional government of the Hawaiian Kingdom by certain persons claiming to have established a provisional government of and for this Kingdom. That I yield to the superior force of the United States of America, whose minister plenipotentiary, His Excellency John L. Stevens, has caused United States troops to be landed at Honolulu and declared that he would support the said provisional government. Now to avoid any collision of armed forces and perhaps the loss of life, I do under this protest, and impelled by said force, yield my authority until such time as the Government of the United States shall, upon the facts being presented to it, undo the action of its representatives and reinstate me in

> the authority which I claim as the constitutional sovereign of the Hawaiian Islands. 198/

By thus phrasing her protest, yielding to the United States rather than to the Provisional Government, Liliuokalani had left open a door by which she might regain her kingdom. She nearly succeeded.

During the next two weeks, the Provisional Government worked to solidify its position. A commission was sent to Washington to request annexation. At the same time, a commission was sent by the queen to request a delay in any action until investigations could be made into the events of her overthrow.

Although Honolulu was apparently peaceful during the last days of January, rumors of counter-revolt were rife in the city. The Provisional Government's small military force would clearly not be effective against any major uprising. Consequently, on January 31, a formal request was made to Stevens to extend protection to the government pending negotiations in Washington. Stevens promptly complied. On February 1, 1893, the following order was given to Captain Wiltse of the Boston:

> The Provisional Government of the Hawaiian Islands having duly and officially expressed to the undersigned, the fear that said Government may be unable to protect life and property, and to prevent civil disorder in Honolulu, the Capital of said Hawaiian Islands, requests that the flag of the United States may be raised, for the protection of the Hawaiian Islands, and to that end confer on the United States, through the undersigned, freedom of occupation of the public building of the Hawaiian Government and the soil of the Hawaiian Islands, so far as may be necessary for the exercise of such protection, but not interfering with the administration of the public affairs, by said Provisional Government.
>
> I hereby ask you to comply with the spirit and terms of the request of the Hawaiian Provisional Government, and to that end to use all the force at your Command, in the exercise of your best judgment and discretion, you and myself awaiting instructions from the United States Government at Washington. 199/

Accordingly, that same day the American flag was raised over the Government Building and custody of the building was given over to U.S. Marines.

Stevens' actions were accepted up to a point by the State Department: "So far as your course accords to the de facto sovereign government the material co-operation of the United States for the maintenance of good order and protection of life and property from apprehended disorder, it is commended; but so far as it may appear to overstep that limit by setting the authority of the United States above that of the Hawaiian Government, in the capacity of Protectors, or to impair the independent sovereignty of that government by substituting the flag and power of the United States, it is disavowed." 200/

The Blount and Morgan Reports

There were no changes in the state of affairs until April 1 when Representative James Blount arrived at the islands on a fact-finding commission. Blount was under instructions from President Cleveland to investigate fully all aspects of the events that had taken place. As Stevens' role was under investigation, he was superseded though at first not officially relieved, by Blount. Blount's instructions read, in part:

> To enable you to fulfill this charge, your authority in all matters touching the relations of this Government to the existing or other government of the islands, and the protection of our citizens therein, is paramount, and in you alone, acting in co-operation with the commander of the naval forces, is vested full discretion and power to determine when such forces should be landed or withdrawn. 201/

By this time, Captain Wiltse had been relieved as senior officer on the Pacific Station by Rear Admiral Joseph Skerrett. Wiltse was detached and ordered home on February 28, 1893. Blount ordered the Marines to return to the Boston (one company of sailors had already been withdrawn, the other remained on shore) and he ordered that the American flag be hauled down. On May 24 he officially replaced Stevens as Minister.

Blount remained in Hawaii until August 9 when he returned to Washington without waiting for a replacement. His lengthy report (nearly 700 pages) laid the blame for the revolution squarely on Stevens and recommended a restoration of the former government. Based on this recommendation, and at the urgings of Secretary of State Walter Gresham, the President ordered the new Minister to offer to aid Liliuokalani to regain her throne with the expectation that she would grant full amnesty to those who had opposed her. Liliuokalani's refusal to meet this requirement, coupled with the Provisional Government's emphatic refusal to consider such a move, negated the attempt. 202/ Meanwhile, it was noted that Blount interviewed neither the members of the Committee of Safety nor the officers of the Boston. There were complaints from those who were interviewed by him that their testimony was slanted in the final report. 203/

After receipt of this report, in a message to Congress on December 18, 1893, President Cleveland said, in part:

> ...The lawful government of Hawaii was overthrown without the drawing of a sword or the firing of a shot by a process every step of which, it may safely be asserted, is directly traceable to and dependent for its success upon the agency of the United States acting through its diplomatic and naval representatives.
>
> But for the notorius predilections of the United States Minister for Annexation, the Committee of Safety, which should be called the Committee for Annexation, would never have existed.
>
> But for the landing of the United States forces upon false pretexts respecting the danger to life and property the committee would never have exposed themselves to the plans and penalties of treason by undertaking the subversion of the Queen's government.
>
> But for the presence of the United States forces in the immediate vicinity and in position to afford all needed protection and support the committee would not have proclaimed the provisional government from the steps of the Government building.
>
> And finally, but for the lawless occupation of Honolulu under the false pretexts by the United States forces, and but for Minister Stevens' recognition of the provisional government when the United States forces were its sole support and constituted its only military strength, the Queen and

> her Government would never have yielded to the provisional government, even for a time and for the sole purpose of submitting her case to the enlightened justice of the United States. 204/

In December 1893, a resolution was adopted by the Senate directing the Senate Committee on Foreign Relations to determine, "Whether any, and if so, what irregularities have occurred in the diplomatic and other intercourse between the United States and Hawaii ..." 205/ The resulting report, the so-called "Morgan Report," reached a conclusion almost exactly opposite the Blount Report. Again there were complaints that not all the people involved had been interviewed and that important pieces of evidence were lacking. The truth lies somewhere between the two reports.

The Republic and Annexation Attempts

Meanwhile, it was evident to the Provisional Government that the political climate was not right for annexation. A more permanent form of government was necessary. Therefore, a constitution for the Republic of Hawaii was adopted on July 4, 1894.

The next few years were relatively calm and stable, yet the aim of the Hawaiian government remained annexation to the United States. Repeated overtures were made, but realization of their goals remained distant until 1897. A new administration in Washington would perhaps be more favorable to annexation. A commission was once again sent to negotiate a treaty. The terms of the treaty were agreed upon and the document signed on June 15, 1897. The treaty was unanimously ratified by the Hawaiian Senate on September 10, 1897. Although it had been introduced in the United States Senate in June 1897, no action was taken until December of that year. After much debate and many delays, the chances of the treaty receiving a two-thirds majority in the Senate appeared slim. On March 16, 1898, a joint resolution was substituted for the Senate bill. Thus the subject came before the entire Congress, where only a simple majority would be required in each House to pass the measure. 206/

The strategic value of the Hawaiian Islands in terms of naval and commercial interests had long been recognized. They lay in the center of the Pacific Basin, a logical point for refueling and resupply. Alfred Thayer Mahan had written in a March 1893 article for Forum that it "may be inferred the importance of the Hawaiian Islands [is] as a position powerfully influencing the commercial and military control of the Pacific, and especially of the northern Pacific, in which the United States, geographically, has the strongest right to assert herself." 207/ Mahan was not alone in his view. Other naval strategists such as Theodore Roosevelt and Commodore George Melville argued the importance of the islands to the United States as well as the importance of keeping any other nation from gaining a foothold there.

With Japan's emergence as a naval force to be reckoned with in the Pacific, and the growing threat of war with Spain, the strategic argument was popular in the United States, although commercial interests were equally important. With America's entry into the war with Spain, and Rear Admiral George Dewey's operations and victories in the Philippines, the strategists' arguments became even more important. Although Pearl Harbor had been ceded to the United States in 1887, nothing had been done to develop the site as a naval base. The strategists argued that mere possession of that harbor did not ensure security as foreign interests could be encouraged in other points in the islands. At the beginning of the Spanish-American War, Honolulu represented the only coaling station available to the United States in the Pacific, with the exception of Samoa which, geographically, was not as important. Victory at Manila Bay provided the impetus for victory for the annexationists in Hawaii. On May 4, 1898, three days after the Battle of Manila, the Newlands Resolution for Annexation was introduced in the House of Representatives. Although there was still a great deal of opposition, the Resolution finally passed on June 15, 1898. After more lengthy debate in the Senate, annexation was approved on July 6, 1898. Formal transfer of sovereignty occurred on August 12, 1898, when the Hawaiian Islands became a United States territory.

C. FURTHER ANALYSIS OF ANNEXATION

Why a Joint Resolution, Not a Treaty?

The reasons for the use of a joint Congressional resolution (the Newlands Resolution) rather than a treaty to annex Hawaii to the United States can be ascertained through the documented history of the annexation proceedings as well as by a review of world events that affected United States policies at the time. Several attempts to annex Hawaii to the United States had taken place prior to 1898, one as early as 1854. 208/ The treaty process was tried until the alternative joint resolution process succeeded in 1898. Although members of Congress and other government officials, as well as private citizens, advanced numerous reasons to use a joint resolution, the primary motivation was expediency. A joint resolution required only a simple majority of the Congress, whereas a treaty would have required a two-thirds majority of the Senate. 209/ The need for annexation, by whatever parliamentary means, was believed urgent to protect the strategic and military interests of the United States in the Pacific.

A short review of world events prior to debate and passage of the 1898 resolution clearly shows the sense of urgency its backers felt. A treaty of annexation was negotiated between the United States and Hawaii on June 16, 1897, and ratified by the Hawaiian Senate later that year. This treaty was submitted to the United States Senate on the same day it was negotiated, but "embroiled in the tariff and lacking a clear majority, much less a two-thirds vote of the membership, the Republican senatorial leadership delayed action." 210/ In the meantime, Japan protested against annexation as harmful to its nationals in Hawaii, who now made up the majority of the cheap labor force on the islands. President McKinley was fearful that Japan would take possession of Hawaii before the United States could annex it. On the subject of Japan, one author writes that in a conversation with Senator Hoar, McKinley stated that:

> "We cannot let the islands go to Japan...Japan has her eye on them. Her people are crowding in there. I am satisfied they do not go there voluntarily, as ordinary immigrants, but that Japan is pressing them in there, in order to get possession before anybody can interfere." McKinley from the first acted on the basis of his new policy with a consciousness of American defense, an appreciation of the desirability of Pacific possessions, and an awareness of the designs of other powers. That consciousness would settle into a hardened conviction that America must assume her destiny in the Philippines as well as Hawaii.

The Japanese scare, however true or false, generated heat, but not enough to accomplish annexation. 211/

On the heels of the Japanese scare came problems with Spain as the United States became involved in the affairs of Cuba and the Philippines. Pro-annexationists also used this as an argument: "The expansionists were quick to point out that suffering Cuba tied in with Hawaii; it was America's destiny to redeem them both. As war with Spain loomed, Hawaii took on new strategic importance for the war in the Pacific." 212/

A listing of specific reasons for Hawaii's strategic importance were incorporated into both Senate Report No. 681, which accompanied an earlier proposed Senate joint resolution, and House Report No. 1355, accompanying the final proposed House joint resolution for Hawaiian annexation. These specifics included the prevention of an alien establishment in the North Pacific, thereby protecting the U.S. Pacific coast, and securing the commerce of the islands. A more important consideration was that the "...*United States must act NOW to preserve the results of its past policy, and to prevent the dominancy in Hawaii of a foreign people*...*It is no longer a question of whether Hawaii shall be controlled by the native Hawaiian or by some foreign people; but the question is, What foreign people shall control Hawaii*?" 213/

When war with Spain did come, claims for the strategic importance of Hawaii expanded to include arguments for a coaling station. It was argued that anything less than annexation would keep Hawaii neutral and allow other belligerents comfort. Most important of all was ensuring that Dewey's ability to defeat the Spaniards at Manila in the Philippines would not be weakened by lack of supplies. Representative Hitt was also concerned about a counterattack:

> For a war of defense the Hawaiian Islands are to us inestimably important, most essential, and in this light they have been most often discussed. The discussion in past years has attracted little public attention, because our people, until they were lately awakened by the war and the movement to reenforce Dewey, have not thought much about the exposed situation of our western coast in case of war with a really great power or the necessity of possessing these islands confronting our Pacific coast.
>
> We learn fast in war time... 214/

President McKinley, "under such circumstances, feared interminable delays, and replaced the treaty...with a simple resolution which could be adopted by a simple majority." 215/ The fact that the administration felt there was a real possibility that the Senate would fail to ratify a treaty with the required two-thirds majority was noted by several members of Congress. Among them was Representative Crumpacker of Indiana, an opponent of annexation, who stated in the debate of June 14, 1898: "...the treaty required the assent of two-thirds of the Senators, and it became apparent that it could not command that assent, so it has been abandoned and this expedient invented..." 216/

In a remarkable display of candor and confidence, Representative Dolliver of Iowa, in favor of annexation, confirmed the comment of the Indiana Representative on both simple majority and expediency, by stating on the day the resolution passed the House that: "Now for the second time a treaty has been negotiated annexing these islands, and the opposition of less than a majority in the Senate has held up the treaty and we are driven to the unusual expedient of a joint resolution of Congress to accomplish a thing which ought to have been accomplished nearly ten years ago." 217/

The proceedings in the Senate also confirmed the fear that the treaty lacked votes. Senator Morrill, during annexation debate, stated: "Here the Senate was informed about it after the Secretary had signed the treaty, but even the Senate did not permit itself to discuss it except in secret session until its paucity of votes was disclosed; and it came originally in the form of a treaty..." 218/ The argument for holding secret sessions was weak and the weakness of the argument is evident from reading the proceedings of this session of May 31, 1898, in which senators in the session questioned the secrecy of anything discussed there.

The proceedings of the secret session show that the proponents of annexation desired a secret session not because of concern for war security, but because they feared defeat of the proposed 1897 treaty of annexation. They used the war with Spain to provide "the heat that generated annexation." 219/ As Representative Alexander stated on June 11: "The annexation of the Hawaiian Islands, for the first time in our history, is presented to us as a war necessity." 220/ This idea was echoed by other legislators such as Representative Pearson who said: "I shall give my vote for this resolution for the same reasons that I supported the war revenue bill. I believe that this is a necessary step in the successful prosecution of the war with Spain." 221/

The final argument involved the appropriateness and constitutionality of the resolution, although Congressional debate on Hawaiian annexation did not concentrate on the constitutional authority of the Congress to annex territory, as it did with Texas. After discussion of this issue, the next section of this report considers the constitutionality question in the context of the lack of a plebiscite in Hawaii on the issue of annexation, as was the case in Texas. (See below, pages 305 and 312.)

Congressmen stated that the annexation of Texas by joint resolution was a precedent to be followed in the Hawaiian case. Mr. William Alden Smith of the House of Representatives commented on the annexation issue:

> While there can be no question, Mr. Speaker, but that treaty making was especially lodged by the Constitution in the President and Senate, and that the composition of the Senate was so framed that each State should have an equal voice, nevertheless, the exigencies which at times confront the Republic warn us of the importance of the popular branch of Congress, coming direct from the people; and the Texas precedent has made the votes of a majority of both branches of Congress sufficient. 222/

Representative Parker also stated that, in dealing with Hawaii, the proper means of annexation would necessarily come from Congress, rather than the treaty-making power. He gave the following explanation:

> It is well understood to be a proper exercise of the treaty-making power that a nation may contract to sell part of its lands which another wishes to buy, but it may well be doubted whether a government can by treaty contract itself out of existence...It may acquiesce, it may agree, but the authority over these islands will

> not be derived from that agreement so much as from the act of the United States in taking possession. 223/

Senator Bate remarked on June 30, 1898, "that it is an innovation upon all precedents known in the history of this country and its legislation that we should have a resolution from the House of Representatives before the Senate involving the precise question that is still pending in the nature of a treaty." 224/ To this may be added the statement concerning McKinley's sentiments that, "He had thought of Hawaii for a year while the treaty languished in the Senate, and finally adopted the medium of a joint resolution for speed's sake though he still disliked its quality of evasion." 225/

President McKinley had evidently considered using a joint resolution to annex Hawaii as early as March 15, 1897. In a conference with former Secretary of State Foster and President Pro Tem of the Senate, William Pierce Frye, the President decided that because his party lacked a two-thirds majority in the Senate: "a joint resolution was best, since it required simple majorities in each house." 226/ However, after sudden negotiations for the Annexation Treaty of June 16, 1897, the treaty was introduced in the Senate instead. The President at this time "had now abandoned the joint resolution scheme because it smacked of weakness, and he wished to gauge opinion while the Treaty was debated." 227/

The joint resolution that was finally used to annex Hawaii was not introduced until world events made plain to the President and Congress that annexation was essential. All concerned viewed it as an expedient. The possibility that passage by a majority of the more representative House, as well as by the Senate, may have indicated greater public support than treaty ratification apparently was not discussed by those considering these issues.

A Comparison to Annexation of Other Territories

Inhabited territories, other than those lands ceded to the Federal Government by individual states, and except for Texas, were annexed by treaty until 1898. 228/ President Jefferson, in considering the territorial annexation of Louisiana in 1803, deliberated carefully whether he had the constitutional authority to annex. The Constitution prohibited the Federal Government from exercising all powers not expressly delegated to it, and was silent on the subject of territorial expansion. Amendment of the Constitution was possible, but Jefferson thought the time required to amend could have lost the purchase of Louisiana. He therefore entered into a treaty with France to purchase and annex the Louisiana Territory on April 30, 1803. At the same time he proposed "to procure a subsequent ratification of the act in a constitutional amendment that should make specific provisions for future acquisitions." 229/ Since the strict constructionists were in the minority, however, without amendment "the troublesome question was deemed to be settled in favor of the constitutionality of territorial acquisition for all time." 230/

The precedent set in the case of Louisiana was subsequently followed in other cases of annexation by treaty: Florida was acquired from Spain on February 22, 1819; California basically was acquired by conquest in 1846-47, followed by a treaty with Mexico on February 2, 1848; New Mexico and Arizona were included in the California treaty; additional territory was added to Arizona by the Gadsden treaty with Mexico of December 3, 1853-June 30, 1854; and Alaska was annexed by treaty of purchase from Russia on March 30, 1867.

In addition, in 1867 the United States proposed to annex Denmark's islands of St. Thomas, St. John, and St. Croix by treaty. Those treaties contained a clause for the assent of the islands' people. The people assented, but the treaty failed. 231/ St. Thomas, St. John, and St. Croix were later annexed by treaty in 1917. A proposed treaty for Santo Domingo failed in 1870 when the clause for the assent of the people resulted in a rejection. The Congressional consideration of the Santo Domingo matter is helpful. After the failure of the treaty to pass the Senate in 1870, numerous attempts were made to pass a joint resolution to annex Santo Domingo, but the Senate resolution that finally passed called only for an investigation of the annexation subject. 232/ The House then proceeded to kill any hopes of annexation using the resolution approach by passing an amendment that stated nothing in the resolution shall be "understood or construed as committing Congress to the policy of annexing..." 233/ When the investigation report was submitted, promoting annexation, it was debated for several days and finally died because "it was impossible to obtain the approval of two-thirds of the senators for a treaty, equally impossible to get a majority vote in the House for a joint resolution." 234/

In addition to these annexations of territory by either treaty of purchase or conquest, the United States also acquired a large number of islands under the Act of August 15, 1856. 235/ This act provided that private American citizens could take possession of (uninhabited) islands for the United States under the principle of discovery. The principal object of such annexations was to secure the guano located on those islands. Approximately 70 islands became United States territory during the period of October 28, 1856, through June 21, 1894. 236/ In addition, the island of Midway was annexed by the Executive Office in 1868 under the principle of discovery, "to create a naval station there." 237/

Another means of acquiring territory was the Proclamation used by President Madison in 1810 to acquire "possession" of territory purchased by the United States in the Louisiana Purchase. 238/ The territory had been allowed to remain under Spanish authority since the treaty with France in 1803.

The annexation most analogous to that of Hawaii, however, was the annexation of Texas. Both were "independent foreign states" that became territories of the United States under joint resolutions.

Texas assumed independence from Mexico and negotiated a treaty with the United States for annexation on April 12, 1844. This treaty was rejected by the United States Senate. In indignation, a powerful movement started in Texas favoring a treaty of alliance with Great Britain or possible reconciliation with Mexico. 239/ This movement aroused the people of the United States and, in consequence, a joint resolution passed both houses of Congress providing for the admittance of the territory of Texas into the Union as a state. The resolution left to the discretion of the President whether to accept Texas by treaty "or by articles of agreement with the Government of Texas under legislative authority, or by the act of a convention chosen by the people of Texas, under like authority." 240/ Texas preferred the convention method, and the matter was submitted to the people of Texas who voted in favor of annexation.

The Texas and Hawaii annexations were similar in several respects, therefore. A number of expatriated American citizens resided in both Texas and Hawaii. In each, a failed treaty attempt had preceded the annexation by a joint resolution. As stated in Senate Report No. 681 on the Hawaiian annexation, "This joint resolution [on Texas] clearly establishes the precedent that Congress has the power to annex a foreign State...either by assenting to a treaty of annexation or by agreeing to articles of annexation or by act of Congress based upon the consent of such foreign Government obtained in any authentic way." 241/ The argument had the tone of certainty, but those opposed argued against the precedent. 242/

Opponents noted that the body of the joint resolution annexing Texas did not contain the words "annex" or "annexing." Instead, the resolutions read: "'may be erected into a State,' ...The proper title to the Texas resolutions is shown by the Congressional Globe to have been, 'Joint resolutions declaring the terms on which Congress will admit Texas into the Union as a State.'" 243/ Representative Mann replied in Congressional debate that: "It is not necessary to deny that the proposed annexation of the Hawaiian Islands constitutes a new departure in the policy of our Government, for whether it does or not makes no difference... the Republican party...has never shrunk from doing that which is right and advantageous because it might be called a new departure." 244/ To add weight to the argument, it was reported that one of the President's advisors stated: "the President has been very firm about it and means to annex the Islands anyway..." President McKinley himself told George Cortelyou: "We need Hawaii just as much and a good deal more than we did California. It is manifest destiny." 245/

The annexation differed, as well. In Texas, unlike in Hawaii, the people voted on annexation. 246/

Did Any Native Hawaiians Sign Annexation Documents?

Determination of whether any native Hawaiians signed the proposed 1897 annexation treaty first requires a definition of "native Hawaiians." Certain parties during the annexation debate attempted to define second and third generation whites born on the islands as "white natives." For example, it was argued that Lorrin A. Thurston, a member of the Hawaiian treaty delegation, whose parents were born in Hawaii, and Chief Justice Judd of Hawaii were "white natives of the islands." 247/ Most agreed, however, that "native Hawaiians" referred to the original aboriginal natives of the islands. This was clearly shown in the census breakdowns concerning Hawaii 248/ and in most of the documents presented concerning annexation.

However, the only way to determine definitively how many native Hawaiians were involved in annexation proceedings is extensive genealogical research. The Federal Archivist told the Commission that this is both time-consuming and expensive. The alternative approach, checking surnames, undoubtedly does not reliably identify the number of native Hawaiians present for legislative action.

The historical record, as detailed below, indicates that no more than six native Hawaiians 249/ were present in the Hawaiian legislature when the 1894 Constitution of Hawaii was adopted. This Constitution, valid until annexation, called for Hawaii's annexation. 250/ Hawaii had a long history of submitting requests for annexation to the United States, both informally and through negotiated treaties. 251/ How many of these earlier requests were actually supported by the native population is a matter of conjecture, since none of Hawaii's constitutions called for a popular vote on annexation. Treaties were left to the head of state with approval of the legislature, 252/ as set forth in Article 32 of the 1894 Hawaiian Constitution. The proposed annexation treaty of 1854 was initiated by the king, a native Hawaiian. This proposal failed when he died and the new king rejected the treaty. 253/

One native Hawaiian was present and voted for the Hawaiian Senate resolution that ratified the Annexation Treaty of 1897 between the United States and Hawaii. 254/ This final act in Hawaiian participation in the treaty ratification process took place in a Special Session of the Senate of the Republic of Hawaii in September, 1897. On the first day of the session, September 8th, President Dole listed the following reasons for annexation: (1) a growing menace to the population by immigration; (2) the threat of great naval powers; (3) need for United States' development of resources; and (4) it was in the best interests of all people of Hawaii. 255/ A protest resolution was also submitted to the Hawaiian Senate, signed by fifteen natives, stating that a mass meeting had been held confirming that "the native Hawaiians and a large majority of the People of the Hawaiian Islands" were against annexation. 256/ On the second day of the session a report was submitted by the Committee on Foreign Relations endorsing the ratification of the proposed treaty of annexation and agreeing with the reasons for annexation presented by President Dole the day before. This report was signed by the committee, including J. Kauhane, a native Hawaiian, on September 9, 1897. 257/

The same committee also submitted a report on the native Hawaiians' protest, in which the committee concluded that it was based more on sentiment than real opposition and recommended that the protest be laid on the table, which it was. This report was also signed by the committee, including J. Kauhane, on September 9, 1897. 258/ The Hawaiian resolution for ratification of the annexation treaty was unanimously adopted by the Senate the same day. 259/ One of those senators voting to adopt the ratification resolution was J. Kauhane, who was also Vice-President of the Senate. Senator Kauhane was the only native Hawaiian who signed the annexation ratification resolution, 260/ the only instrument relating to annexation other than the Treaty of 1897.

In the Congressional debate on annexation, Representative Bland was asked directly whether "the Senate of Hawaii which ratified the treaty is composed largely of native Hawaiians?" The answer was: "Oh, Mr. Speaker, I am not speaking of natives or foreigners. There are a few white natives." 261/

Providing further evidence of lack of "native" participation in annexation proceedings was the so-called "monster petition" of 1897 262/ signed by approximately 29,000 native Hawaiians protesting annexation by the United States. This petition was investigated by the United States Congress and the subsequent report indicated that many names on it were fraudulent. 263/ A large portion of the 29,000 names on the list remained, however, and they represented the vast majority of the 31,000 "native Hawaiians" living on the islands. 264/ This figure may be compared with the 3,196 actual voters in the first election under the 1894 Constitution held in 1896, and the 2,687 voters for representatives in 1897. 265/

Congressional debate on annexation is filled with comments to the effect that it was known that most, if not all, native Hawaiians opposed annexation. 266/ Senator Caffery informed the Senate on June 28, 1898, that "the people of Hawaii do not want annexation...When I speak of the people of Hawaii I speak of the native Hawaiians." 267/ He then submitted documents concerning an 1893 interview with a white Hawaiian born in the islands in 1850. This gentleman stated that if an annexation vote had been taken "it would be overwhelmingly defeated--almost to a man by the native Hawaiians..." 268/

The Organic Act, passed by the United States Congress, opened the way for an open electorate in Hawaii. With this development, Hawaiians sent to the U.S. Congress their first delegate, Robert Wilcox, a home rule advocate and leader of native Hawaiian insurrections in 1889 and 1895. Hawaii's first Territorial Legislature of 1901 was also composed largely of native Hawaiians and Home Rule advocates who proceeded to protest annexation by delaying bills, failing to pass the appropriation bill, and calling for Governor Dole's removal due to incompetence. 269/

D. HAWAIIAN ADMISSION TO STATEHOOD COMPARED TO THAT OF OTHER STATES

Hawaii was admitted to statehood in 1959 after more than sixty years as a territory. This section of the report includes a discussion of Hawaii's admission, a statement of Hawaii's boundaries at statehood, and a comparison of the history of admission with the admission history of several other states. The selected states, in the order of their statehood, are: Louisiana, Florida, Texas, Oregon and Alaska.

Under the Constitution, the acquisition of new territory was achieved by treaties with foreign nations, except for Texas and Hawaii, which were annexed by joint resolution. The usual course after annexation was the establishment of a territorial government, the adoption of a state constitution and government, and the request for admission. A few states did not establish territorial governments: Texas, Florida and California. 270/

Certain other requirements also became standard for statehood:

(1) The inhabitants of the proposed new State are imbued with and are sympathetic toward the principles of democracy as exemplified in the American form of government.

(2) A majority of the electorate wishes statehood.

(3) The proposed new State has sufficient population and resources to support State government and at the same time carry its share of the cost of the Federal Government. 271/

While the move to incorporate the Hawaiian territory into the United States was an important step toward statehood, it was not an assurance for its realization. The extended period of time in which the islands remained in territorial status was notable, but it was not unique to Hawaii. Alaska experienced the same delay in achieving statehood. There were also other states with long territorial periods: Utah, 46 years; Arizona, 49 years; and New Mexico, 62 years. 272/

History of Hawaiian Statehood

Hawaii was annexed to the United States by Joint Resolution No. 55, July 7, 1898 (30 Stat. 750). The legislative record indicated that the joint resolution for annexation was substantially the same as the treaty negotiated in the prior year with the Republic of Hawaii, which was duly ratified by its Senate. 273/

Soon after annexation, a territorial government was established for Hawaii under the Act of April 30, 1900 (31 Stat. 141). As early as 1903 the legislature of the Territory of Hawaii began to petition Congress for statehood. 274/ As in the case of Alaska, the question of statehood for Hawaii was the subject of numerous Congressional hearings and debates for many years. The proceedings in which Hawaiian statehood was discussed reflect that politics, both in the United States and on the islands, was a major factor in delaying Hawaii's transformation from territory to state.

The political situation in Hawaii was best summarized by John A. Burns, Delegate from Hawaii, in his article entitled, "Statehood and Hawaii's People." 275/ He described the Hawaiian achievement of statehood as the conquering of centralized government and the emergence of Hawaii's people. He admitted that the overthrow of the Hawaiian monarchy in 1893 was an unpopular event and that the Hawaiian people distrusted the new Provisional Government. Its rule was much more stringent than that of the monarchy since a large portion of the general public was prevented from voting, while power remained in the hands of the propertied class. Burns stated that the unpopularity of the annexation was not because of animosity toward the United States, but rather a resentment for the particular ruling party.

Directly after annexation, a commission was set up to compose an Organic Act for Hawaii. According to Burns, two Hawaiian members of the commission wished to add a property and income requirement to the educational qualifications for voting. This provision would have prevented the majority of the Hawaiian people from voting. The efforts of Senator Tillman of South Carolina blocked such a measure, however, and the Organic Act was passed in 1900 with only a literacy requirement for voters.

The Territorial government continued to be extremely restrictive. Even though the Territorial legislature had passed measures for erecting county governments, the Territorial executive repeatedly vetoed them. Finally, the situation evoked a Congressional investigation. This resulted in an ultimatum by Congress that called for the Territory to organize county governments quickly or Congress would do so. After this directive, the Territorial executive allowed a local government bill to pass.

Delegate Burns listed a number of other reasons why statehood was delayed for Hawaii: besides county government, the Hawaiian Homes Commission, the bill of rights, and other projects all involved excessive amounts of time. In addition to these reasons, the controlling economic and political groups strongly opposed statehood for their own interests. After amendments were made to the Agricultural Adjustment Act by the Act of May 9, 1934 (48 Stat. 670), placing strict limits on the amount of sugar imported from Hawaii into the continental United States, and extensive investigations were made into other Hawaiian affairs, the controlling groups were compelled to support statehood.

By 1935, Hawaiian statehood hearings had become more active. It was then suggested that a plebiscite be held to determine whether Hawaiian citizens approved of the statehood proposal. A plebiscite held in 1940 showed a majority of the residents of Hawaii favoring admission to the Union. At that point, however, World War II temporarily delayed any further attempts for statehood.

The numerous proceedings on Hawaiian statehood proved time and time again that Hawaii had met all the criteria for admission. Desire for statehood was evidenced by the approval of the state constitution in the general election of November 1950, by a 3-to-2 margin. 276/

After the war, procrastination on Hawaiian statehood bills came mostly from the United States Congress. Alaska and Hawaii were in the midst of the same political struggle and their futures as territories or states were at the sole discretion of the Congress. Once the fight for Alaskan statehood had been won, it was evident that the last incorporated territory, Hawaii, would soon achieve the same status. Hawaii was finally admitted to the Union as a State by the Act of March 18, 1959 (73 Stat. 4).

Hawaiian Boundaries

The joint resolution of annexation did not define the boundaries of Hawaii, but merely accepted the cession made by the government of the Republic of Hawaii of "the Hawaiian Islands and their dependencies." The islands were listed as Hawaii, Maui, Oahu, Kauai, Molokai, Lanai, Niihau, Kahoolawe, Molokini, Lehua, Kaula, Nihoa, Necker, Laysan, Gardiner, Lisiansky, Ocean, French Frigates Shoal, Palmyra, Brooks Shoal, Pearl and Hermes Reef, Gambia Shoal, and Dowsett and Maro Reef (Sen. Doc. No. 16, 55th Cong., 3rd Sess.).

The Admission Act of March 18, 1959 (73 Stat. 4) and the State Constitution define the boundaries as "all the islands, together with their appurtenant reefs and territorial waters, included within the territory of Hawaii...except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters, but said state shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island), or Kingman Reef, together with their appurtenant reefs and territorial waters."

Some question is presented regarding the status of Midway Island. The United States claims that it acquired Midway on August 28, 1867. The Hawaiian government, before annexation, claimed it had acquired Midway on July 5, 1859, prior to the acquisition by the United States. Thus, there is an academic question of whether the United States acquired Midway when it annexed Hawaii or whether it acquired Midway independently.

Palmyra Island was part of the territory that the United States acquired when it annexed Hawaii (see United States v. Fullard-Leo, 331 U.S. 256 (1947)), but is not now part of the State of Hawaii. Midway Island, Johnston Island, and Sand Island were included within the jurisdiction of the United States District Court for Hawaii by the Act of August 13, 1940 (54 Stat. 784) and it may be that the specific exclusion of these islands from the Admission Act and the Constitution was merely to overcome any presumption that might have arisen from the 1940 Act that these islands were in the Territory of Hawaii. In any event, it is clear that Palmyra Island was once part of the Kingdom of Hawaii and the Territory of Hawaii but is not now part of the State of Hawaii. Midway Island is not part of the State of Hawaii either; there is a question of whether it was part of the Hawaiian Kingdom. Midway, however, is part of the Hawaiian Island chain.

Comparison to Admission of Other States

Louisiana

The first parcel of land to be added to the United States under the powers of the new federal Constitution was the territory known as the "Louisiana Purchase." This land was purchased by the United States from France under the Treaty of April 30, 1803 (8 Stat. 200). The transaction was necessary for the continued success of the commercial traffic on the Mississippi River and especially for maintaining the important port at New Orleans. Popular support for the acquisition of the Louisiana territory was strong because the acquisition was viewed as a means of removing a large European power from America's doorstep and promoting national independence. This sentiment overcame whatever doubts were expressed by members of Congress as to the constitutional authority of the nation to acquire foreign territory. 277/

A significant section of the Treaty of Paris in 1803 was Article III, which stated:

> The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible...

This provision anticipated the admission of the Louisiana territory in the near future. From the cession, two territories were erected and a temporary government provided for under the Act of March 26, 1804 (2 Stat. 283). An enabling act was then passed for the people of the Orleans Territory on February 20, 1811 (2 Stat. 641) so that they might form a constitution and state government and request admission to the Union. This goal was subsequently accomplished and statehood was confirmed by the Act of April 8, 1812 (2 Stat. 701).

Florida

The second area of land annexed to the United States by means of treaty was East and West Florida. This territory was ceded by Spain to the United States under the Treaty of Amity, Settlement, and Limits, February 22, 1819, and ratified by the United States on February 19, 1821 (8 Stat. 252). The necessity of the annexation of Florida was accepted under the same principle as Louisiana, that is, keeping the European powers at a safe distance from home. 278/

The treaty with Spain contained a provision under Article 6 similar to that in the Treaty of 1803 with France. It stated:

> The inhabitants of the territories which his Catholic Majesty cedes to the the United States, by this Treaty, shall be incorporated in the Union of the United States as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States.

In keeping with this agreement, a temporary government was established for Florida under the Act of March 3, 1819 (3 Stat. 523), superseded by the Act of March 3, 1821 (3 Stat. 637) following ratification of the treaty. In January 1839, Florida formed its constitution and state government and asked for admission into the Union. Florida statehood was confirmed by the Act of March 3, 1845 (5 Stat. 742), which also admitted the State of Iowa.

The acquisitions of Louisiana and Florida were reflections of a growing national policy described by John Gorham Palfrey, who stated:

> The acquisition must be read with all the facts; it expressed the national individualism; it was defensive, to preserve the national unity; a mere taking of adjoining land to protect the peace and prosperity at home; it was subjective, not objective. 279/

Texas

The circumstances surrounding the annexation of Texas were quite different from the circumstances surrounding acquisition of Florida and Louisiana. Texas was an independent republic and had been since about 1835. At that time, Mexico had begun losing control over the territory and the Anglo-Saxon settlers organized a provisional government of their own. From that point on, there had been constant struggles between the Texans and Mexicans. President John Tyler, in his message to the members of the 28th Congress during its second session, stated that the continued hostile relations between Texas and Mexico would only prove detrimental to the peace and prosperity of the United States. 280/ To avoid this, President Tyler offered a treaty of annexation to Texas that Texas found most agreeable. The Senate, however, did not ratify the treaty. Tyler claimed that the main objection to the treaty was that it was not put to a popular vote among the American people. Thus, he felt it his "duty to submit the whole subject to Congress as the best expounders of popular sentiment." 281/

The flavor of the Congressional debates in the 28th Congress, second session, on the proposition for the annexation or admission of Texas to the Union indicated that the question of slavery was the prime concern. To divert attention from the preeminent slavery issue, however, other arguments against annexation came into focus. These arguments included the constitutional power of Congress to acquire foreign lands, and the effect of the Texas annexation on the rights of Mexico and her possible response to such action.

While slavery was at the heart of the disagreement about the annexation of Texas, the constitutional question regarding the authority of Congress to annex by joint resolution, rather than treaty power, gained the most support from those in opposition. Were it not for an amendment to the joint resolution providing that the President could, if he deemed advisable, negotiate with the republic instead of proceeding with the resolution, the action might never have passed the Senate. 282/

Texas was ultimately annexed to the Union by Joint Resolution No. 8, March 1, 1845 (5 Stat. 797). The resolution of annexation anticipated immediate statehood for the Republic of Texas. Shortly thereafter, Joint Resolution No. 1, December 29, 1845 (9 Stat. 108) was passed, admitting the State of Texas into the Union. Discussions were brief in the 29th Congress on the resolution to admit Texas; however, a few remarks were made concerning the propriety of the action of Congress that effectuated the Texas annexation The dissenting members of Congress apparently became resigned to the majority opinion. 283/

The annexation of Texas was a prime example of the expression of the popular political and social conditions of the time. It was a rejection of Mexico's continued hostilities in the territory, an exercise of an inherent power of Congress, and a submission to the unyielding efforts of the annexationists.

Oregon

The area of the Pacific Northwest, which had been known as Oregon

Country, was made popular by its fur trade. This industry gained the interest of the United States, Russia, Spain, and England. Spain, however, yielded her interest in that territory to the United States in the Treaty of 1819, and later, in 1824, Russia agreed to cease further settlements south of 54° 40'. This left the powers of the United States and Great Britain as final competitors for the vast territory. Prior to that time, the United States and Great Britain had entered into an agreement of joint occupation in 1818 (8 Stat. 248), which remained in effect for ten years. On August 26, 1827, the 1818 agreement was essentially renewed, but for an indefinite period of time with a provision that either party could terminate the agreement upon a twelve-month notice. 284/

Settlement in the Oregon Country was slow until the early 1840's, when large groups of emigrants began making their way along the Oregon trail in search of more prosperous lives. It was this influx of American settlers that provided the impetus for the United States to define her claim in the Oregon Country against Great Britain. President Polk reoffered a division of the territory at the 49th parallel, but Great Britain refused. The United States then exercised her right to abrogate the Convention of 1827 while expressing her intention to fight for the territory that she claimed was rightfully hers by title. New negotiations were begun and Great Britain finally agreed to the division of the Oregon Country at the 49th parallel by the Treaty of June 15, 1846 (9 Stat. 869).

Oregon was provided with a territorial government under the Act of August 14, 1848 (9 Stat. 323). This action had been delayed in the Congress because of the heavily-debated slavery issue. The people of the Oregon territory then adopted a constitution and state government. Their application for admission into the Union was accepted by the Act of February 14, 1859 (11 Stat. 383). The State of Oregon was formed and the remainder of its territorial lands outside the newly-declared boundaries were made part of the Territory of Washington.

Alaska

Alaska was purchased from the Russians under the Treaty of March 30, 1867 (15 Stat. 539) for $7,200,000. The treaty was not overwhelmingly well received, but with the persistence of Secretary of State Seward, it passed the Senate.

The quest for Alaskan statehood was a long and tedious battle. Alaska was first established as a "civil and judicial district" under the Act of May 17, 1884 (23 Stat. 24), and was not recognized under a territorial government until the passage of the Act of August 24, 1912 (37 Stat. 512). The legislative record showed that the first statehood bill was offered in 1916, followed in subsequent years by extensive hearings and testimony on the subject. At various times during this period, bills for Alaskan statehood had been acted upon favorably in both houses of Congress and in committees of each house. 285/ Ernest Gruening's book on The State of Alaska, indicated that Alaskan industrial interests and other partisan interests were strongly against statehood, and for maintaining the status quo. They caused considerable delay to Alaska's admission.

By the 1950's, even with party platforms supporting statehood for the last two incorporated territories, Alaska and Hawaii, resistance continued in the Congress. Senator Church described the situation as "the reluctance of Congress to share its prerogatives, or to extend the legislative franchise." 286/ Members of Congress did not want their voices or votes to be undermined by the addition of new senators and representatives. Finally, these political obstacles were overcome in the 85th Congress and the State of Alaska was admitted into the Union by the Act of July 7, 1958 (72 Stat. 339).

DIPLOMATIC AND CONGRESSIONAL HISTORY: FROM MONARCHY TO STATEHOOD

NOTES

1/ Ethel M. Damon, Sanford Dole and His Hawaii (Palo Alto, Calif.: Published for Hawaiian Historical Society by Pacific Books, 1957), p. 141.

2/ Kathleen Dickenson Mellen, An Island Kingdom Passes (New York: Hasting House Publishers, 1958), pp. 8-10.

3/ Ibid., p. 14.

4/ Paul Bailey, Kings and Queens of Old Hawaii (Los Angeles, Calif.: Westernlore Press, 1975), p. 267.

5/ Ibid.

6/ Mellen, p. 36.

7/ Damon, p. 141.

8/ Eugene Burns, The Last King of Paradise (New York: Pellegrini & Cudahy, 1952), p. 156.

9/ Ibid.

10/ Act of January 30, 1875, 19 Stat. 625-626.

11/ Charles C. Tansill, The Foreign Policy of Thomas F. Bayard (New York: Fordham University Press, 1940), p. 370.

12/ Ibid.

13/ Burns, p. 157.

14/ Edward Joesting, Hawaii: An Uncommon History (New York: W. W. Norton & Co., Inc, 1972), p. 211.

15/ Ibid., pp. 211-212.

16/ Bailey, p. 269.

17/ Congressman Daniel Akaka, in his comments on the Commission's Draft Report, questions the interpretation in the Draft Report of events during Kalakaua's reign because of the emphasis placed on the role of Walter Gibson. He states: "If Gibson was in fact so important a figure, why was his participation in events ignored in first-hand accounts of the period...?" (Akaka's Comments, p. 5). He adds: "I seriously question this interpretation of history and the emphasis placed on Gibson's influence with the monarchy" (Akaka's comments, p. 5.)

Walter Gibson's influence on the monarchy ended with his departure from Hawaii on July 12, 1887. He died shortly afterwards in the United States on January 24, 1888. (K. D. Mellen, An Island Kingdom Passes, pp. 200 and 212, (1958)). James H. Blount arrived in Hawaii for the first time on April 6, 1893 (Dispatch No. 1, Spec. Comm.). His duties, upon arrival in Hawaii, were to concentrate on taking and compiling evidence and testimony on the 1893 downfall of the Hawaiian Monarchy and formation of the Provisional Government, as well as the state of affairs in Hawaii at the time (E. M. Damon, Sanford Dole and His Hawaii, p. 258 (1957); Gresham to Blount, Correspondence No. 1, March 11, 1893 printed in H. Ex. Doc. No. 47, 53rd Cong., 2nd Sess. (1893)). It is self-explanatory that Blount himself could not have been the author of any first-hand account of the Kalakaua/Gibson era. Indeed, the scope of Blount's duties did not include any need to investigate this period.

Notwithstanding the foregoing, it can be pointed out that the Blount dispatches did discuss Gibson's participation in the events of the Kalakaua era. Not only did Blount discuss Gibson, but he took testimony of first-hand accounts from people who were present in Hawaii at the time Gibson was, and who knew him.

Blount's papers include an interview he had with Hawaiian Chief Justice A. F. Judd on May 16, 1893 (Interview No. 28, p. 371 of Blount's report in House Ex. Doc. No. 47, 53d Cong. 2d Sess. (Dec. 18, 1893)). The questions were asked by Blount, himself, concerning Gibson and his power.

> Q. Did Gibson use the race feeling to obtain power, and to maintain himself in it?
>
> A. He did; and he also used flattery to the King to exalt his position. He fostered in the King's mind the idea of proclaiming himself emperor of the Pacific in connection with the Samoan affair.

The interview Blount had with M. M. Scott on April 10, 1893 went even further. It implied that Gibson's policies and influence not only caused the 1887 revolution, but that the impact of these policies were evident even in 1893 (Interview No. 46, Ibid., p. 488 (1893)). Blount again conducted the interview personally.

> Blount: What I want to know is this: Whether or not prior to 1887, and down to the revolution the controversies followed racial lines.
>
> Scott: This present revolution?
>
> Blount: Yes, were the contests generally parallel with racial lines?
>
> Scott: They were.
>
> Blount: Did these contests, parallel to what we have termed racial lines, grow out of the difference of opinion on questions of taxation or questions of taxation and legislation? How did they grow?
>
> Scott: No, they grew out of the office. Mr. Gibson advised it.
>
> Blount: Please bring that out.
>
> Scott: In the spring of 1882, when they held the election here, he advised it. He was the originator of the phrase "Hawaii for Hawaiians." He was a man of marked ability. He was the president of the board of education. He made speeches couched in careful language when the foreigners would see or hear them. He spoke Hawaiian well. His cry was "Hawaii for Hawaiians." He said to the people, the missionary has not been your friend. He leaves no outlet for you. He does not wish you to hold office. He [Gibson] puffed up Kalakaua with the idea that he could be emperor of all the Pacific Islands.

Regarding this and other comments, Blount sent a dispatch (Blount to Gresham, Correspondence No. 17, July 17, 1893, pp. 107-108, in H. Ex. Doc. No. 47, 53d Cong., 2d Sess. (1893)) which stated:

> The great stir in Cabinet changes commenced with the Gibson Cabinet in 1882. He was a man of large information, free from all suspicions of bribery, politically ambitious, and led the natives and some whites...

> It may not be amiss to present some of the criticisms against Kalakaua and his party formally filed with me by Professor W. D. Alexander...
>
> He gives an account of various obnoxious measures advocated by the king, which were defeated.
>
> In 1882 he says the race issue was raised by W. Gibson and only two white men were elected to the Legislature on the Islands.

Walter Gibson's influence over Kalakaua was also illustrated in passages of Gibson's diary as follows:

> Sat., Jan. 15--"Examined the Explorer [a ship]. Propose to purchase her as a Government vessel to send to Samoa to carry Bush on his several missions."
>
> Sun., Jan. 16--"A talk with the King about the Explorer. He said that Aholo and Kanoa were opposed to the purchase of her. It is too much my enterprise. These natives are opposed. I am sorry to have our Polynesian movement checked." (Jacob Adler & Gwynn Barrett, The Diaries of Walter Murray Gibson, (Honolulu: University of Hawaii Press, 1973), p. 114.
>
> Tues., Jan. 18--"Talked earnestly with the King about the purchase of the Explorer. He is convinced and with me. Told me to call a Cabinet early in the morning."
>
> Wed., Jan. 19--"A Cabinet Council at the Palace at 7:00 A.M. The King determined about purchase of Explorer--so decided in Council. I and Aholo, a Committee to make purchase. We went at 8 A.M. to Hotel and found Mr. Arundel. Concluded purchase for $20,000 in four installments. [sic] I have carried my point, and the Polynesian movement will not be checked." (Ibid., p. 115.)
>
> Fri., Jan. 21--"Completed the purchase of the Explorer--the vessel delivered to the Min. of Interior Aholo. I will now take charge of her as Secretary of the Navy--an empty title--but I will push this matter, our Polynesian confederation. Hawaii has the elements and prospects of a commanding Polynesian state--Kalakaua shall be a King." (Ibid., pp. 116-117.)

Lorrin Thurston and William Castle were also very familiar with Gibson. They were among the members of the Committee of Thirteen who specifically asked for his dismissal from the Kalakaua Cabinet in 1887. Wm. R. Castle, in his Reminiscences (published privately in 1960 per the University of Hawaii Library (Hawaiian Collection)), wrote at p. 77:

> It was said at that time that Moreno was going to organize and consolidate a union of all the Pacific Islands under Kalakaua as emperor. The same way that dreamer Walter Gibson obtained a controlling influence over Kalakaua by holding out wonderful pictures of a vast future of boundless wealth for us if his, Gibson's plans were carried. No doubt these alluring pictures accounted in part for his determined plan to create an army and navy with which to conquer the Pacific. Through his dreams or to appreciate the fact that with every opportunity in his grasp to render his name immortal by a wise and beneficent leadership he was instead making a wreck of his reign...

As for the books by Wm. A. Russ, the titles alone should explain Gibson's absence from them. They were entitled The Hawaiian Revolution, 1893-94 and The Hawaiian Republic, 1894-98. Gibson died in 1888.

The above comments also address views expressed in comments received by the Commission from Elmer Miller about Kalakaua's policies.

18/ Burns, p. 158.

19/ Mellen, P. 75.

20/ Ibid.

21/ Bailey, P. 278.

22/ Burns, p. 165.

23/ Ibid., p. 168

24/ Ibid.

25/ Ibid., p. 170.

26/ With respect to the statement that Celso Moreno and the king called "for Hawaiians to throw out or kill the planter sympathizers and foreign interests groups on the Islands," Congressman Daniel Akaka commented: "It is difficult to believe Kalakaua capable of such intrigue and scheming" (Akaka's Comments, p. 5).

Shortly after Celso Moreno was installed as a member of the Hawaiian Cabinet with the title of Minister of Foreign Affairs in 1880, posters in his support came out in all parts of Honolulu. They were addressed to "All true-born citizens of the country" and asked them to support Moreno: "His intention is to cast down the foreigners and put in their places the true Hawaiians..." (K. D. Mellen, An Island Kingdom Passes, p. 91 (1958); Copy of entire poster in Blount Rept., H. Ex. Doc. No. 47, 53rd Cong., 2d Sess., p. 183 (1893).

Robert W. Wilcox, a Hawaiian who supported Moreno and attended a mass meeting of citizens to discuss the Moreno appointment, proclaimed that "foreigners were stirring up confusion for their own evil purposes..." (E. M. Damon, Sanford B. Dole, p. 156 (1957)). Sanford Dole, who attended the mass meeting, reported his feelings to his brother George. Dole wrote: "Robert Wilcox...probably egged on by the king...appears to wish the destructin of white men..." (Ibid., p. 157).

A first-hand account by James M. Comly, the U.S. Minister Resident to Hawaii (1877-1882), discusses the Moreno incident of 1880 in some detail, particularly in Dispatch No. 122, dated 21 August 1880 from Honolulu. Comly reports that the British, American, "Hawaiian citizens who were natives of the United States," and German residents of Hawaii presented memorials "to interfere for the protection of [their] interests, and demand the dismissal of the new Cabinet, as a menance to [their] capital invested here." Comly, who had informed the king of strong opposition to Moreno, mentions a discussion held by him and others in which "the general impression seemed to be that Moreno intended personal violence if I did not give way."

With respect to the role of the king it appears that at the very least he was highly sympathetic to Moreno's points of view. Kalakaua stated to Minister Comly: "Mr. Moreno had shown himself to be a very entertaining companion, a man of large and novel views in political and state affairs; that he had been frequently surprised to find out how exactly Mr. Moreno's views coincided with his own; and that he [had] put him in office because of this harmony and sympathy..." (Comly Dispatch, No. 122).

The dispatches of Minister Comly pertaining to the Moreno affair and its sequel include Nos. 104, 113, 121, 122, 131, 136, 141 and 149. "The Moreno affair of 1880 is one of the most curious and at the same time one of the most important incidents in Hawaiian history...These dispatches of General Comly are an important contribution to the history of the reign of Kalakaua" (Hawaiian Diplomatic Correspondence, Historical Commission of the Territory of Hawaii, Vol. I, No. 3, Ralph S. Kuykendall, p. 42 (1926). Note: Entire Dispatch No. 122 reprinted in *Hawaiian Diplomatic Correspondence*.)

27/ Burns, p. 168.

28/ Bailey, p. 285.

29/ Joesting, p. 213.

30/ Damon, p. 160.

31/ Joesting, p. 214.

32/ *Ibid*.

33/ Mellen, p. 102.

34/ *Ibid*., p. 103.

35/ Bailey, p. 286.

36/ Mellen, p. 107.

37/ See comment received from Robert C. Schmitt, p. 3.

38/ Mellen, p. 115.

39/ *Ibid*., p. 120.

40/ *Ibid*., p. 121.

41/ Bailey, p. 287.

42/ Mellen, p. 122.

43/ Damon, p. 166.

44/ Mellen, p. 125.

45/ Bailey, p. 288.

46/ Mellen, p. 164.

47/ Damon, p. 175.

48/ Mellen, p. 169.

49/ Damon, p. 192.

50/ Joesting, p. 217. Congressman Daniel Akaka comments that the Draft Report on page 184, "indicates that the spark that ignited the annexationists was the signing of a bill to regulate the sale of opium and a bill to establish a lottery" (Akaka's Comments, pp. 5-6). In addition, it is asserted that these bills "...were merely used as excuses by the annexationists to bring down the Monarchy" (Akaka's Comments, p. 6). Other commenters raised a similar point.

The draft report does not refer to the lottery bill until page 190, in the section on Liliuokalani's reign. Moreover, the comments do not accurately reflect the chronology of events. The lottery bill was enacted in 1893--not in 1886-1887 which is the period discussed at pages 184-185 of the draft report. More importantly, the statement cited in support of these comments is a December 20, 1893 statement made with respect to conditions in 1893 and not events in 1886-1887. Finally, pages 184-185 of the draft report refer to the "reformers"--not "annexationists."

51/ Damon, p. 192.

52/ Joesting, p. 217.

53/ Bailey, p. 21.

54/ *Ibid*., p. 291.

55/ Joesting, p. 218.

56/ Bailey, p. 295.

57/ Senator Daniel Inouye and others commented that the Draft Report fails to inquire into the possible role of the United States Government in the adoption of the 1887 Constitution; i.e., the extent to which the United States "condoned, participated in or enjoyed the benefits of the coercive activities of the American expatriate group" which is alleged to be chiefly responsible for the 1887 Constitution (Comments by Senator Daniel K. Inouye on the Draft Report of Findings of the Native Hawaiians Study Commission, pp. 14-15 (November 23, 1982)). This section is added to explain that role.

58/ Ralph S. Kuykendall, Hawaiian Kingdom, Volume III, The Kalakaua Dynasty, 1874-1893 (Honolulu: University of Hawaii Press, 1967), p. 350. Hereinafter referred to as "Kuykendall, Volume III."

59/ Kuykendall, Volume III, pp. 351-352.

60/ Sanford B. Dole, Memoirs of the Hawaiian Revolution, (Honolulu: Advertiser Publishing Co., Ltd., 1936), p. 48; cited by Kuykendall, Volume III, p. 352.

61/ Kuykendall, Volume III, p. 352. The foregoing information is not contained in James H. Blount's 1893 report. Neither Clarence Ashford "nor Volney Ashford, in the statement which he wrote for Commissioner Blount, say anything about the Honolulu Rifles and their part in the Revolution of 1887" (Kuykendall, Volume III, p. 704, note 27). This is a critical omission in light of the pivotal role of the Honolulu Rifles with respect to the adoption of the 1887 Constitution. Specifically, the Honolulu Rifles patrolled the streets of Honolulu and arrested Walter Gibson, Kalakaua's premier, just prior to the king's assent to the formation of the cabinet government. Kalakaua, who had called out the Rifles himself on June 30, 1887, to keep order, had unwittingly given official sanction to an army that he discovered shortly afterwards was unreliable. Fear of the worst convinced the king to sign. Obviously, concealment of the data from Blount was beyond his control. The salient point is that the absence of this information from Blount's report, for whatever reason, tends to make it much less authoritative than its proponents contend it is.

62/ Kuykendall, Volume III, p. 703, footnote 9.

63/ Ibid., pp. 348-349.

64/ House Ex. Doc. No. 47, 53 Cong., 2nd Sess., p. 203; cited in Kuykendall, Volume III, p. 348, footnote.

65/ Ibid., p. 348, footnote.

66/ Quoted in A. D. Baldwin, A Memoir of Henry Perrine Baldwin, 1842-1911 (Cleveland, 1915), pp. 55-56; cited in Kuykendall, Volume III, pp. 348-349, footnote.

67/ Kuykendall, Volume III, p. 349, footnote. Emphasis added.

68/ Blount Report, H. Ex. Doc. No. 47, 53d Cong., 2d Sess., p. 331 (1893).

69/ Kuykendall, Volume III, p. 348.

70/ Ibid., p. 347; and Enclosure No. 5 to Dispatch No. 124 (Petition of American Citizens to Merrill), U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy No. T-30, Roll 23). The names of only three members of the Committee of Thirteen appear on the petition of American citizens. Presumably, if there had been more than three American nationals on the Committee, the names of more than three members of the Committee would have appeared on the petition. This assumption is supported by the fact that the Hawaiian League-sponsored

"Reform Cabinet" (appointed in 1887) contained only one American expatriate--the grandson of original American Missionaries who had been in Hawaii since 1828. (See discussion above, p. 277 and Lorrin A. Thurston, Memoirs of the Hawaiian Revolution (Honolulu: Advertiser Publishing Co., Ltd., 1936), p. 277.)

Thurston added as well that "Among the leaders of the conservatives were the 'mission boys,' the sons and grandsons of the early American missionaries. Two of the strongest conservatives were Sanford B. Dole and P. C. Jones, members of the executive committee" (Ibid., p. 277). Thurston also stated: "Besides our own military [Honolulu Rifles], we had the support of the 'Drei Hundert,' chiefly composed of Germans, who were reputed to have served in the German Army" (Ibid., p. 141). Thus, the military wing of the League contained Germans and was commanded by a Canadian.

71/ Kuykendall, Volume III, p. 344.

72/ Ibid., p. 355.

73/ Memorandum written by Bayard after conversation with Carter, July 6, 1887, Hawaiian Legation, Notes from Vol. 3, MS Dept. of State; cited and quoted in Charles C. Tansill, The Foreign Policy of Thomas F. Bayard, p. 391.

74/ Bayard MS, Foreign Relations, 1894, Appendix II, pp. 660-662, 793-817; cited and quoted in Tansill, pp. 391-392. The above quote was cited to indicate the possibility that Minister Merrill was opposed to the reformers, though it cannot be determined. As pointed out in Tansill, p. 392: "There is nothing in the Bayard manuscript that would confirm this statement of Mr. Carter." From the conversation that Bayard had on July 6, 1887, it would appear that references to instructing Merrill not to help Kalakaua are probably false. What was interesting in the above quote is that Merrill was not considered an active ally of the reformers nor American warships an aid to their revolution.

75/ Kuykendall, Volume III, p. 353. Inclusion of this discussion of the Aki episode was suggested in comments received by the Commission on its Draft Report.

76/ Wodehouse to Foreign Office, No. 15, very confidential, April 12, 1887, British Public Record Office, Foreign Office 58/220; cited by Kuykendall, Volume III, p. 353.

77/ Wodehouse to Foreign Office, No. 10, confidential, March 16, 1887, British Public Record Office, Foreign Office 58/220; cited by Kuykendall, Volume III, p. 353.

78/ Merrill to Bayard, unnumbered, May 31, 1887, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 24, 1st letter on roll).

79/ Merrill to Bayard, No. 124, June 6, 1887, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 23).

80/ Merrill to Bayard, Dispatch No. 135, July 30, 1887, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 23).

81/ Ibid.

82/ Kuykendall, Volume III, p. 358.

83/ Hawaii Daily Bulletin, June 28, 1887; cited by Kuykendall, Volume III, p. 358.

84/ Daily Herald, July 1, 1887, submitted as Enclosure 1 in Merrill to Bayard, No. 125, July 1, 1887, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 23).

85/ Ibid. See also footnote 89, below.

86/ Kuykendall, Volume III, p. 363; J. Adler and G. Barrett, The Diaries of Walter Murray Gibson (Honolulu: University Press of Hawaii, 1973), p. 162.

87/ Kuykendall, Volume III, p. 364.

88/ Merrill to Bayard, No. 135, July 30, 1887, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 23).

89/ Sanford B. Dole explained concerning the committee bringing the resolutions to Kalakaua on June 30th that:

> The committee immediately called on the King, presented him with a certified copy, and informed him that he was given twenty-four hours in which to make reply. He gave oral reply that it was not necessary to wait; that he would accede now to all the demands. The committee said to the King that the meeting had given him twenty-four hours, and the committee would not change the requirement. Moreover, the committee stated, they wished a reply in writing (Dole, Memoirs of the Hawaiian Revolution, p. 55).

90/ Merrill to Bayard, No. 139, August 29, 1887, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 23).

91/ Mellen, p. 196.

92/ Joesting, p. 220.

93/ Thomas M. Spaulding, Cabinet Government in Hawaii, (Honolulu: University of Hawaii Occasional Papers, No. 2, 1924), pp. 1 and 8. Emphasis added.

94/ Bailey, p. 297.

95/ New York Herald, August 25, 1887, quoted in Daily Bulletin, September 7, 1887; cited by Kuykendall, Volume III, p. 371.

96/ Joesting, p. 220.

97/ Bailey, p. 299.

98/ Hawaiian Instructions, Vol. 2, MS, Dept. of State (November 19, 1881).

99/ Senate Executive Journal, Vol. 24, pp. 280 and 289.

100/ Tansill, p. 372.

101/ Senate Executive Journal, Vol. 25, p. 419.

102/ Tansill, pp. 377-78.

103/ Ibid., p. 379.

104/ Senator Daniel Inouye states that the Draft Report did not inquire into the "possible role" with regard to "thwarting subsequent efforts by native Hawaiians to overturn... [the 1887] Constitution in 1889 and to revise it in 1890" (Senator Inouye's Comments, pp. 14-15). The following 7 pages were added in response to that comment.

105/ Kuykendall, Volume III, p. 401.

106/ Daily Bulletin, July 20, 1887; Hawaiian Gazette, July 26, 1887; cited by Kuykendall, Volume III, p. 407.

107/ Hawaiian Gazette, August 9, 1887; Pacific Commercial Advertiser, August 15, 1887; cited by Kuykendall, Volume III, p. 407.

108/ Ibid.

109/ Hawaiian Gazette, August 16, 1887; cited by Kuykendall, Volume III, p. 407.

110/ Daily Bulletin, September 13, 1887; Hawaiian Gazette, September 13, and 20, 1887; Pacific Commercial Advertiser, September 12 and 19, 1887; Damon, Sanford Dole and His Hawaii, pp. 204-205; W. D. Alexander to A. C. Alexander, September 17, 1887, in private collection; Merrill to Bayard, No. 141, September 19, 1887, U.S. Department of State Archives, Dispatches, Hawaii, Vol. XXIII, printed in For. Relations, 1888, p. 803; Wodehouse to Foreign Office, No. 30, political and confidential, September 27, 1887, British Public Record Office, Foreign Office 58/220; cited by Kuykendall, Volume III, p. 410.

111/ Daily Bulletin, September 16, 1887 (letter of "One Who Voted Straight Reform"); cited by Kuykendall, Volume III, p. 410.

112/ Laws, 1887, passim; legislative proceedings reported in Honolulu newspapers; cited by Kuykendall, Volume III, p. 411.

113/ Wodehouse to Foreign Office, Nos. 30 and 35, political and confidential, September 27, December 20, 1887; Daily Bulletin, November 25, 26, 1887; Hawaiian Gazette, November 8, 15, December 13, 1887; Pacific Commercial Advertiser, December 5 (letter by "Reform"); Laws, 1887, pp. 60-64; cited by Kuykendall, Volume III, p. 411.

114/ Kuykendall, Volume III, p. 411.

115/ Ibid., p. 413.

116/ Everett v. Baker, 7 Haw. 229 (1888).

117/ Merrill to Bayard, No. 162, December 24, 1887, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 23).

118/ Liliuokalani, Diary, December 20, 22 and 23, 1887, in State Archives of Hawaii; cited by Kuykendall, Volume III, p. 415.

119/ Kuykendall, Volume III, p. 714, note 46.

120/ Merrill to Bayard, No. 166, January 14, 1888, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 23).

121/ Kuykendall, Volume III, p. 415.

122/ Ibid. It should be noted that Kuykendall, in reprinting these passages from Liliuokalani's diary, explained that "the two W's are believed to stand for Robert W. Wilcox and Charles B. Wilson."

123/ Record of Informal Meetings of the Cabinet Council, January 18, 1888; cited by Kuykendall, Volume III, p. 416.

124/ Ibid.

125/ Wodehouse to Foreign Office, No. 76, political and confidential, September 28, 1888, British Public Record Office, Foreign Office 58/234; cited by Kuykendall, Volume III, p. 420.

126/ Macfarlane v. Damon, 8 Haw. 19 (1890).

127/ Wodehouse to Foreign Office, Nos. 70 and 73, political and confidential, August 4, 28, 1888, British Public Record Office, Foreign Office 58/234; cited by Kuykendall, Volume III, p. 422.

128/ Kuykendall, Volume III, p. 416.

129/ Ibid., p. 425.

130/ Ibid.

131/ Ibid.

132/ Merrill to Blaine, No. 253, July 26, 1889, printed in House Ex. Doc. No. 48, 53 Cong., 2d Sess., pp. 14-15; Commander E. T. Woodward to Secretary of Navy, July 27, 1889, printed in Ibid., pp. 459-460 (1893).

133/ Wodehouse to Foreign Office, No. 5, political and confidential, August 2, 1889, British Public Record Office, Foreign Office 58/242. "The portion of this dispatch quoted was written on or before July 27. From a rough draft dated July 16 in [the State Archives of Hawaii], British Consulate Records, it appears that Wodehouse received his first information from the king's brother-in-law, A. S. Cleghorn;" cited by Kuykendall, Volume III, p. 426.

134/ Merrill to Blaine, No. 255, August 1, 1889, printed in House Ex. Doc. No. 48, 53 Cong., 2d Sess., pp. 16-18 (1893).

135/ Kuykendall, Volume III, p. 424.

136/ Daily Bulletin, July 31, 1889, as Enclosure No. 1 in Merrill to Blaine, No. 255, August 1, 1889, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 24); see also Kuykendall, Volume III, pp. 426-427; see also L. A. Thurston, Memoirs of the Hawaiian Revolution, pp. 192-97. Kuykendall states that this suggestion is "incompatible with other known facts except on the theory of a double cross by Wilcox or the king" (p. 427). On the other hand, the Commission received the following comment from Helena K. Wilcox Salazar, granddaughter of the Hon. Robert W. Wilcox: "...I was appalled and truly amazed to read that my grandfather, the Honorable Robert W. Wilcox, led the counter-rebellion of 1889 to restore Kalakaua to power. This is not true and gives the impression that Kalakaua had the backing of the people.

"According to grandfather, Kalakaua cared nothing about the people, and according to Historian W. D. Alexander, the people, in turn, were indifferent as to Kalakaua's fate.

"Historian R. S. Kuykendall informs us that grandfather led the counter-rebellion to 'replace Kalakaua with Liliuokalani'--after the Kalakaua-Pate scandals. Moreover, nor did grandfather lead the counter-rebellion of 1895 to restore Liliuokalani.

"As an alternate to the disastrous rule of the Kalakaua's, he told Commissioner Blount, he had sought rather to found a Republic." (See Appendix for comment.)

137/ *Merrill to Blaine*, No. 255, August 1, 1889 printed in H. Ex. Doc. 48, 53rd Cong., 2d Sess., p. 16 (1893).

138/ *Merrill to Bayard*, No. 255, August 1, 1889, printed in House Ex. Doc. No. 48, 53 Cong., 2d Sess., p. 17 (1893).

139/ Joesting, p. 242.

140/ *Merrill to Blaine*, No. 257, August 6, 1889, printed in House Ex. Doc. No. 48, 53 Cong., 2d Sess., pp. 18-19 (1893).

141/ *Wodehouse to Foreign Office*, No. 8, political and confidential, August 24, 1889, British Public Record Office, Foreign Office 58/242; cited by Kuykendall, *Volume III*, p. 431.

142/ *Wodehouse to Foreign Office*, No. 2, political, January 17, 1890, British Public Record Office, Foreign Office 58/253; cited by Kuykendall, *Volume III*, p. 453.

143/ Kuykendall, *Volume III*, p. 454, citing *Record of Informal Meetings of the Cabinet Council*, February 4, 1890.

144/ *W. D. Alexander to A. C. Alexander*, February 7, 1890, in a private collection of Alexander family papers; cited by Kuykendall, *Volume III*, p. 452.

145/ Kuykendall, *Volume III*, p. 460.

146/ *Daily Bulletin*, June 17, 1890; *Pacific Commercial Advertiser*, June 18, 1890; cited by Kuykendall, *Volume III*, p. 461.

147/ *Daily Bulletin*, July 2, 1890; cited by Kuykendall, *Volume III*, p. 462.

148/ *Daily Bulletin*, August 14, 15, 1890; cited by Kuykendall, *Volume III*, p. 462.

149/ *Journal of the Legislative Assembly*, August 15, 1890. The original message is in the Legislative file in the State Archives of Hawaii; cited and qualified by Kuykendall, *Volume III*, p. 462.

150/ *Stevens to Blaine*, No. 30, confidential, August 19, 1890, U.S. Department of State Archives, Dispatches, Hawaii, Vol. XXIV, printed in House Ex. Doc. No. 48, 53 Cong., 2d Sess., pp. 67-68 (1893).

151/ *Wodehouse to Foreign Office*, No. 23, political and confidential, August 29, 1890, British Public Record Office, Foreign Office 58/253; cited by Kuykendall, *Volume III*, p. 403.

152/ Kalakaua to Robert F. Synge, "Strictly Confidential," September 19, 1890, British Public Record Office, Foreign Office 58/254; cited by Kuykendall, Volume III,p. 463. (Kuykendall notes that the British Foreign Office wrote on Kalakaua's letter that Wodehouse's "advice was sensible enough and has been approved.")

153/ Daily Bulletin, and Pacific Commercial Advertiser, September 10, 1890; cited by Kuykendall, Volume III, p. 464.

154/ Wodehouse to Foreign Office, Nos. 24 and 26, political and confidential, September 10, 20, 1890, British Public Record Office, Foreign Office 58/253; cited by Kuykendall, Volume III, p. 464.

155/ Stevens to Blaine, No. 3, September 25, 1890, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 25).

156/ Kuykendall, Volume III, p. 464.

157/ Ibid., p. 509.

158/ Ibid., p. 487.

159/ Ibid., p. 488.

160/ Mott Smith to Parker, December 2, 4, 16, 30, 1891; January 13, 30, February 10, 1892, in State Archives of Hawaii, Treaty Document File; cited by Kuykendall, Volume III, p. 499.

161/ Pacific Commercial Adverister, July 11, 1892; cited by Kuykendall, Volume III, p. 503.

162/ Daily Bulletin, July 14, 15, 1892; cited by Kuykendall, Volume III, p. 504.

163/ Pacific Commercial Advertiser, August 15, 1892; Daily Bulletin, August 15, 1892; cited by Kuykendall, Volume III, p. 504.

164/ Kuykendall, Volume III. p. 508.

165/ Bulletin editorial of August 27, 1884; cited by Kuykendall, Volume III, p. 508.

166/ Kuykendall, Volume III, p. 510.

167/ Ibid., p. 514.

168/ Daily Bulletin, July 21, 1891; cited by Kuykendall, Volume III, p. 515.

169/ Kuykendall, Volume III, p. 519, citing (a) Ka Leo o Ka Lahui, November 24, 1891; (b) Ibid., October 9, 1891; (c) Pacific Commerical Advertiser, December 5, 1891.

170/ Ka Leo o Ka Lahui, February 5, 1892; cited by Kuykendall, Volume III, p. 522.

171/ Kuykendall, Volume III, p. 523.

172/ Ibid., p. 529.

173/ Ibid., p. 526; refers to Mott Smith to Parker, December 30, 1891, State Archives of Hawaii, Treaty Documents.

174/ Kuykendall, Volume III, p. 532.

175/ Thurston, Memoirs of the Hawaiian Revolution, p. 229.

176/ Kuykendall, Volume III, p. 533.

177/ Thurston, Memoirs of the Hawaiian Revolution, p. 229.

178/ Ibid., pp. 230-232.

179/ Thurston to Blaine, May 27, 1892, with enclosed statement, U.S. Department of State Archives, Miscellaneous Letters, May 1892, Pt. II; cited by Kuykendall, Volume III, pp. 536-537.

180/ Kuykendall, Volume III, p. 370.

181/ National Archives, Record Group 45, Area File 9, July-October 1892.

182/ Ibid.

183/ Kuykendall, Volume III, p. 580.

184/ Ibid., pp. 582-583.

185/ Merze Tate, The United States and the Hawaiian Kingdom (New Haven: Yale University Press, 1965); p. 161.

186/ Ibid., p. 163.

187/ Ibid., p. 166.

188/ Kuykendall, Volume III, p. 588.

189/ James Blount, Report of the Commissioner to the Hawaiian Islands (Washington: Government Printing Office, 1893), p. 497.

190/ Tate, p. 168.

191/ Kuykendall, Volume III, pp. 590-591.

192/ Blount, p. 118.

193/ Area File 9, November 1892-May 1893.

194/ Ibid.

195/ Ibid.

196/ Kuykendall, Volume III, p. 598.

197/ Ibid., p. 601.

198/ Blount, p. 120.

199/ Area File 9, November 1892-May 1893.

200/ Ibid.

201/ Blount, p. 2.

202/ Tate, pp. 242-246.

203/ Kuykendall, Volume III, pp. 624-631.

204/ Quoted in Tate, pp. 248-249.

205/ Kuykendall, Volume III, p. 647.

206/ Tate, Chapter 8.

207/ Alfred Thayer Mahan, "Hawaii and Our Future Sea Power," The Forum XV (March, 1893), p. 7.

208/ H. R. Rep. No. 1355, 55th Cong., 2d Sess., p. 1 (1898). (Copies of previous proposed Annexation Treaties with U.S. of 1854 and 1893 and Reciprocity Treaty of 1875, pp. 91-97).

209/ C. Julien, America's Empire (New York: Panipheon Books, 1971), p. 53; 31 Cong. Rec., pp. 5920, 6003 (1898).

210/ H. Wayne Morgan, Wm. McKinley and His America, (Syracuse, N.Y.: Syracuse University Press, 1963), p. 295.

211/ Ibid., pp. 295-6.

212/ Ibid., p. 296.

213/ H. R. Rep. No. 1355, 55th Cong., 2d Sess., p. 29 (1898). The Office of Hawaiian Affairs commented that the Commission's Draft Report "...reasons that annexation by the joint resolution method was necessary because annexation was essential" (OHA's Comments, p. 17). OHA states that by the time the annexation resolution was introduced in Congress the Spanish-American War was "virtually over" and asserts that the joint resolution was utilized "because of strong opposition in the Senate to annexation" (OHA's Comments, p. 17). Similarly, Congressman Daniel Akaka submits: "It wasn't so much expediency that required a joint resolution in Congress as the fact that many Americans and their representatives did not support the annexation of a country whose government had been established and maintained with United States military force" (Congressman Akaka's Comments, p. 11).

In fact, the Draft Report acknowledges that there was strong opposition to the annexation of Hawaii in the United States Senate (Draft Report, pp. 203-204; Final Report, pp. 302-303). Furthermore, the comments ignore the distinction between the immediate reason for the interest in annexing Hawaii that prompted the use of a joint resolution--i.e., fear that unless the United States acted immediately some other foreign power would take over Hawaii--and the underlying reasons for interest in annexing Hawaii: the commercial importance of Hawaii, a fear of control of Hawaii by the Japanese, and protection of the Pacific Coast. These underlying reasons are evident from the Congressional debate on the joint resolution.

Theories of present-day historians that American commercial interests were the principal motivating force behind annexation (T. J. Osborne) or that anti-Japanese sentiment was the major driving force behind annexation (W. H. Morgan) (pointed out in Senator Daniel Inouye's Comments, p. 11) do not alter the fact that the underlying reasons for interest in annexation cited in the Draft Report, in fact, contributed to sentiment for annexing the Hawaiian Islands.

214/ 31 Cong. Rec., p. 5772 (1898).

215/ Julien, p. 53.

216/ 31 Cong. Rec., p. 5920 (1898).

217/ Ibid., p. 6003.

218/ Ibid., p. 6141.

219/ Morgan, p. 296.

220/ 31 Cong. Rec., p. 5785 (1898).

221/ Ibid., p. 5835.

222/ Ibid., p. 6005.

223/ Ibid., p. 5982.

224/ Ibid., p. 6518.

225/ Morgan, p. 297.

226/ Ibid., p. 294.

227/ Ibid., p. 295.

228/ As sources for this section, see the Treaties and Acts relating to Territories Annexed; Treaties Proposed on Texas and Hawaii. See also S. Rep. No. 681, 55th Cong., 2d Sess., pp. 19-22 (1898), and 1898 Hawaiian Annexation Papers.

229/ 31 Cong. Rec., p. 5875 (1898).

230/ Ibid. This power has been affirmed in *American Insurance Company* v. *Canter*, 26 U.S. 511, 524 (1828); *Mormon Church* v. *United States*, 136 U.S. 1, 42-43 (1890); and other cases. See also S. Rep. No. 681, 55th Cong., 2d Sess., p. 46 (1898).

231/ See E. Oberholtzer, *A History of the United States Since the Civil War, Volume II*, (New York: The Macmillan Co., 1928), pp. 226-227.

232/ Cong. Globe, 41st Cong., 3d Sess., p. 271 (1870).

233/ Ibid., p. 416. (See also S. Ex. Doc. No. 17 and H. Ex. Doc. Nos. 42, 43, 41st Cong., 3d Sess. (1870).)

234/ Oberholtzer, p. 244.

235/ 34 Stat. 119.

236/ 31 Cong. Rec., p. 5878 (1898). (List of island names and locations.)

237/ Ibid.; S. Ex. Doc. No. 79, 40th Cong., 2d Sess., pp. 1-3 (1868).

238/ Presidential Proclamation of October 27, 1810, 11 Stat. 761.

239/ S. Rep. No. 681, 55th Cong., 2d Sess., p. 1 (1898).

240/ Ibid., p. 2.

241/ Ibid.

242/ 31 Cong. Rec., pp. 6012-6014, 6518 (1898); H. R. Rep. No. 1355, 55th Cong., 2d Sess., pp. 53-58 (1898).

243/ 31 Cong. Rec., p. 6518 (1898). Further, opponents of Hawaiian annexation claimed that the Texas plebiscite set the precedent for a popular vote on annexation by Hawaiians. The forces in favor of Hawaii's annexation, however, argued that the Act of the Texas legislature calling the convention made no provision for a popular vote. It was simply done at the discretion of the Governor. The Texas legislature's acceptance of the terms of the resolution, prior to the popular vote, had completed the annexation.

244/ 31 Cong. Rec., pp. 5845-46 (1898).

245/ Morgan, p. 296.

246/ Some commenters criticized the Draft Report's comparison of the annexation of Hawaii and Texas. For example, comments from Congressman Daniel Akaka state that the comparison is "too pat" and only serves to "mislead and confuse the history of the era." The comparison was in fact first made in the 1898 Congressional debates, and the similarities and differences are accurately reflected in the Report.

247/ S. Doc. No. 214, 55th Cong., 2d Sess., pp. 8-9 (1898).

248/ H. R. Rep. No. 1355, 55th Cong., 2d Sess., p. 42 (1898); 31 Cong. Rec., p. 5987 (1898).

249/ The total of six native Hawaiians is taken from a statement of Hawaii's Attorney General W. O. Smith (E. Damon, p. 296).

250/ S. Doc. No. 109, 55th Cong., 2d Sess., p. 35 (1898); Hawaiian Constitution of 1894.

251/ H. R. Rep. No. 1355, 55th Cong., 2d Sess., pp. 1-2 (1898).

252/ S. Rep. No. 681, 55th Cong., 2d Sess., p. 4 (1898).

253/ H. R. Rep. No. 1355, 55th Cong., 2d Sess., pp. 54-55 (1898); S. Rep. No. 681, 55th Cong., 2d Sess., pp. 3-4 (1898).

254/ Hawaii Sen. Jour. of Extra Sess. pp. 22, 239 (1897); J. Kauhane's obituary; Letter dated February 26, 1982, to John Hitzelberg, U.S. Department of Justice, from Agnes Conrad, State Archivist of Hawaii.

255/ Hawaii Sen. Jour. of Extra Sess., pp. 3-4 (1897).

256/ *Ibid*., pp. 10-11.

257/ *Ibid*., p. 15.

258/ *Ibid*., p. 21.

259/ *Ibid*., pp. 20 and 22.

260/ *Ibid*., p. 239; Letter, dated 2/26/82, to John Hitzelberg, Department of Justice, from Agnes Conrad, State Archivist. To answer the question on "native Hawaiian" signatures to annexation would ideally require checking the family histories of all the members of the Hawaiian Legislature and cabinet members. In lieu of this, the sources relied upon were documents cited here, the statement of the State Archivist, and an examination of names that appear to be Hawaiian, which may be how the State Archivist arrived at her conclusion that J. Kauhane was the only "native Hawaiian."

261/ 31 Cong. Rec., p. 5841 (1898).

262/ Cover pages of the "monster petition" are included in Archives annexation papers. This petition is also discussed in the Congressional debate; see 31 Cong. Rec., p. 6702 (1898).

263/ 31 Cong. Rec., pp. 5787, 5883-86 (1898); Treaty Annexation papers from National Archives.

264/ S. Rep. No. 681, 55th Cong., 2d Sess., p. 43 (1898); 1896 Census.

265/ 31 Cong. Rec., p. 6702 (1898).

266/ *Ibid*., pp. 6014, 6337, 6404, 6469.

267/ *Ibid*., p. 6404.

268/ *Ibid*., p. 6469.

269/ Damon, pp. 340-341.

270/ [1958] U.S. Code Cong. & Ad. News 2933, 2936.

271/ *Ibid*., p. 2943.

272/ *Ibid*., p. 2936.

273/ 31 Cong. Rec., pp. 5770-71.

274/ [1959] U.S. Code Cong. & Ad. News 1346, 1350.

275/ 105 Cong. Rec., pp. 14564-66 (1959).

276/ *Ibid*., p. 14565.

277/ John Gorham Palfrey, *The Growth of the Idea of Annexation, and Its Breaking Upon Constitutional Law*, 13 Harvard L. Rev. 377-380 (1899-1900).

278/ *Ibid*., p. 380.

279/ *Ibid*.

280/ Cong. Globe, 28th Cong., 2d Sess., pp. 4-5 (1844-45).

281/ *Ibid*., p. 4.

282/ *Ibid*., p. 363 (Mr. Crittenden).

283/ Cong. Globe, 29th Cong., 1st Sess., p. 88 (1845-1846) (Mr. Webster).

284/ Convention with Great Britain, August 6, 1827 (8 Stat. 360).

285/ 101 Cong. Rec., p. 5882 (1955).

286/ 104 Cong. Rec., p. 7997 (1958).

Existing Law, Native Hawaiians, And Compensation

In light of the history of landholding laws in Hawaii, the fall of the monarchy, and annexation as set forth in the preceding two chapters, the Commission has examined whether the native Hawaiians have any legal claim to compensation from the United States for loss of land or sovereignty. The present chapter sets forth the analysis and findings of this review. In preparing this chapter, the Commission has reviewed a number of articles and reports making the legal argument in favor of compensation. These include Melody MacKenzie's report for the Office of Hawaiian Affairs, Sovereignty and Land: Honoring the Native Hawaiian Claim, 1/ Karen Blondin's A Case For Reparations for Native Hawaiians (16 Hawaiian Bar Journal 13), and H. Rodger Betts' unpublished Report on the Hawaiian Native Claims (Second Draft, February 17, 1978). The Commission also attempted to address the views and analyses presented by a number of people at the Commission's hearings throughout Hawaii in January, 1982. In addition, the Commission has taken into account a number of comments received during the comment period on this chapter as it appeared in the Draft Report of Findings. Because of their scope, special attention was given to comments received from Senator Daniel K. Inouye, Congressman Daniel K. Akaka, the Office of Hawaiian Affairs (OHA), and Patrick Hanifin. 2/

In the following sections, the chapter first sets forth the background for the analysis, since much of it depends on technical legal concepts and terms. It then reviews whether the native Hawaiians are entitled to compensation for loss of their land under present law, and whether they are entitled to compensation for loss of their sovereignty. Finally, this chapter compares the native Hawaiians' claims to those of the Alaska Natives, addressed by Congress in the Alaska Native Claims Settlement Act. 3/

A. BACKGROUND

Over the years, a number of different native groups and organizations have sought compensation from the United States for loss of lands and loss of sovereignty. As a result, a large body of law has developed. That law is made up of both statutes passed by Congress and of cases decided by courts. Much of that law has been developed because American Indians have made claims for compensation; other law has grown out of claims by Alaska Native groups. In the discussion of whether the native Hawaiians have viable claims for compensation, the analysis examines whether the existing law--statutes and cases--provides a basis for giving compensation. Without in any way suggesting that Hawaiian natives are an Indian tribe, the law developed for and about Indian tribes will be reviewed to determine whether this body of law provides a legal basis for the native Hawaiian claims. 4/

Generally, law providing that native groups may be entitled to compensation for loss of land has developed under two legal principles: first, that a native group had "aboriginal title" to lands, and those lands were taken by the United States; and second, that the native group had "recognized title" to lands--title that the United States specifically acknowledged under its laws--and those lands were taken by the United States. A native group must meet a number of technical legal requirements in order to be entitled to compensation under either principle. This chapter will analyze the facts regarding the native Hawaiian history and land law in the context of those legal requirements.

Claims for compensation for loss of sovereignty, on the other hand, have been made under several laws. This chapter will first look at the legal concept of sovereignty, then consider the native Hawaiian experience under that concept. The chapter will then examine each of the laws under which claims for loss of sovereignty have been made.

Finally, this chapter will look at whether any special trust relationship exists between the United States and the native Hawaiians that would be a basis for compensation. It will then compare the native Hawaiian claims to the Alaska Native claims.

While this chapter must cover technical and legal material, summaries at the beginning and end of each portion of the chapter will make clear the context in which those legal points are considered.

B. ABORIGINAL TITLE AND COMPENSATION

Aboriginal title is a concept developed in the law to provide a basis for a native group that does not have traditional, legally-accepted land ownership rights to establish a claim to land based on use and occupancy thereof where the sovereign (an entity separate and distinct from the native group) has the underlying fee to said land. It is generally defined as title derived from the use and occupancy of land from time immemorial. 5/ Under the law, a number of specific tests have developed that a native group must meet in order to establish that it has aboriginal title to a tract of land: the group must be "a single landowning entity;" 6/ there must be actual 7/ and exclusive use and occupancy 8/ of the land; the use and occupancy must be of a defined area; 9/ and the land must be used and occupied for a long time before aboriginal title was extinguished. 10/

If the native Hawaiians meet the tests for holding aboriginal title, to be entitled to compensation from the United States the title must have been extinguished by the government of the United States, not by the government of Hawaii, before the United States annexed Hawaii. 11/ Finally, even if the aboriginal title was terminated by the United States, some law must give the native Hawaiians a right to compensation for loss of aboriginal title, since without such a law there is no right to such compensation. 12/ The following sections will analyze each of these requirements to determine: whether the native Hawaiians had aboriginal title to portions of the land in Hawaii; whether the United States extinguished that title; and whether the native Hawaiians are entitled to compensation for loss of that title.

Did the Native Hawaiians Have Aboriginal Title to the Crown and Government Lands?

To establish aboriginal title to the Crown and Government lands, native Hawaiians must meet each of the tests for such title set forth above. 13/

Under present law, the native Hawaiians as a group (without determining what persons would qualify as native Hawaiians) meet some but not all parts of the test to be a single landowning entity. 14/ Courts have held that, even in the absence of political cohesion, Indians having a common culture, common language, ties of kinship, economic ties, treated by the sovereign as having collective rights in the area claimed, and having common use of a claimed area, constituted a single landowning entity. 15/ The native Hawaiians were a group with a common culture, language, and ties of kinship.

Their economic ties in the nineteenth century are less apparent, since commoners were free to move from one ahupua'a to another, and since, during that century, many native Hawaiians left the land to work for foreign landowners in Hawaii or to work in other non-agricultural pursuits, so that they did not act as a group with economic ties to each other. 16/ Under the ancient land law system, it could be considered that the king owned all the land. 17/ However, even at that time the native Hawaiians did not treat all the lands as owned in common. A native Hawaiian tenant worked for a particular chief, and could be summarily ejected from the land he cultivated by that chief. In turn, the chief could be summarily removed from his land by the king. 18/ These practices underscored that ownership of the land was not by all native Hawaiians as a group.

Furthermore, the Great Mahele (or division of land) of 1848 brought to an "end once and for all the feudal system of land tenure in Hawaii, and finally and conclusively established the principle of private allodial titles." 19/ Since the intended goal of the Land Commission Board and of the Mahele was to be a total partition of undivided interests and also, a division and parcelling out of the Government and Crown lands 20/ (that is, defeudalization), 21/ any idea of communal ownership was laid to rest.

Moreover, the Kuleana Act of 1850 (and other legislation passed subsequent to the Great Mahele) allowed individual native Hawaiians to claim a fee simple interest in lands they had actually cultivated or, in the case of other native Hawaiians, to obtain fee simple title to Government lands by purchase. 22/ In addition, much land, including Government and Crown land established by the Great Mahele, was made available for purchase by foreigners. These lands, then, were not held in common by the native Hawaiians, but were owned in fee simple and gave the people vested property rights. Such ownership is not in common and is contrary to the concept of aboriginal title.

The Kuleana Act was significant in two other respects. Those natives who cultivated land had traditionally been allowed to "grow crops for their own use and to pasture animals on unoccupied lands" of the ahupua'a, one of the principal landowning units into which all land (including Government and Crown lands) was divided. 23/ The Kuleana Act abolished the right to grow crops and the right of pasturage. 24/ In addition, the Kuleana Act had the effect of establishing the principle that Government land could be sold, thereby opening the way for foreigners to purchase Government lands. By 1851, native Hawaiians had purchased over 90,000 acres of Government land and by 1893, foreigners had purchased over 600,000 acres of Government land. 25/ By 1893, 752,431 acres of Government and Crown lands had been leased to foreigners. 26/

One theory contends that the statement in the 1840 Constitution of Hawaii that the lands of Hawaii "belonged to the chiefs and people in common" 27/ establishes that the native Hawaiians had collective or common ownership of the Government and Crown lands and, in effect, proves that the native Hawaiians had aboriginal title to the Government and Crown lands. 28/ Similarly, it has been argued that the change in the land system of Hawaii under the Great Mahele, whereby the king "set apart forever to the chiefs and the people" approximately one and one-half million acres of land and retained for himself, his heirs and successors approximately one million acres 29/ (known respectively as the Government and Crown lands), establishes the collective ownership of these lands by the native Hawaiians and, therefore, effectively proves that they had aboriginal title thereto. 30/ However, even if the quoted language signifies that the Hawaiian Government treated the native Hawaiians as having "collective rights" 31/ in the Government and Crown lands, this treatment does not, in and of itself, establish that the native Hawaiians constituted a single landowning entity, 32/ which, in turn, is only one of the prerequisites for the existence of aboriginal title. Furthermore, even if the quoted language were an acknowledgment by the Hawaiian Government that native Hawaiians had a right to exercise some degree of control over the Government and Crown lands, this acknowledgment, in and of itself, does not prove the existence of aboriginal title to these lands. 33/ The existence of aboriginal title is a question of fact that must be established by clear and definite proof. 34/ The historical record reveals developments in individual ownership by native Hawaiians of many of these same lands between 1848 and 1893 and the ownership and/or use of many of the Government and Crown lands by non-natives by 1893 35/--facts that belie the arguments based on the 1840 Constitution and Great Mahele.

The first test for aboriginal title is the existence of a "single landowning entity." While the native Hawaiians, as a group, meet some of the requirements for a "single landowning entity," they do not meet all such requirements. As noted, they did not have common economic ties that united them. Not only were commoners free to move from one *ahupua'a* to another, but during the nineteenth century many native Hawaiians abandoned the land to work for foreign landowners in Hawaii or to work in other non-agricultural pursuits. 36/ Second, it does not appear that they made common use of the Crown and Government lands after 1848, in light of the ownership of many of these lands by individual native Hawaiians and individual non-natives, and the use of many of these lands by non-natives under leases from the Hawaiian Government. Third, even if the Hawaiian Government had treated the native Hawaiians as having "collective rights" in the Crown and Government lands prior to 1848, it appears that it did not do so after that date. Indeed, passage of the *Kuleana* Act (and related legislation), which opened the way to ownership of Crown and Government lands by individual native Hawaiians and individual foreigners, and the practice of leasing Government and Crown lands to foreigners indicate that after 1848 the Hawaiian Government did not view the native Hawaiians as an entity that had "collective rights" in the Crown and Government lands. In order for a group to be deemed a "single landowning entity," it must have been viewed as an entity having collective rights as of the alleged date of extinguishment of title. 37/

One comment received by the Commission on its Draft Report states that the Hawaiian Government was the "single landowning entity" required for the existence of aboriginal title. In effect, the commenter asserts that the native Hawaiians and the Hawaiian Government are one and the same for the purpose of aboriginal title. 38/ It is clear, however, that the government of Hawaii represented all the citizens of Hawaii, not just the native Hawaiians. Additionally, it is significant that the United States dealt with the government of Hawaii as a separate sovereign, or foreign country, the same way in which it dealt with France, for example. The United States Government did not treat Hawaii as a domestic dependent nation as it did entities such as Indian tribes. Moreover, the commenter's view is not consistent with the facts. The *Kuleana* Act of 1850 abolished the rights of native tenants to grow crops and pasture animals on Government and Crown lands. 39/ This statute was interpreted by the Hawaiian Supreme

Court as effecting an implicit repeal of all former gathering rights as well. 40/

These facts present strong evidence that the Hawaiian Government did not represent only the native Hawaiians 41/ and was not the "single landowning entity," since enactment of this legislation had the effect of terminating the native Hawaiians' right of use and occupancy (the essence of aboriginal title) of most of the Government and Crown lands. In addition, it was provided by statute that any Hawaiians using Government land without Government authorization could be prosecuted for trespass. 42/ Yet if the Hawaiian Government had been the "single landowning entity," native Hawaiians would, of necessity, have had a right to use and occupy Government lands without any authorization, and therefore should have been specified as exempt from application of this statute. Finally, native tenants who had long occupied lands deemed to belong to the Government (that is, lands that had never been awarded to anyone by the Board of Land Commissioners) were held to have neither title to nor the right of possession of these lands, but, in effect, were only trespassers thereon. 43/ If the Hawaiian Government had been the "single landowning entity" for aboriginal title purposes, these native tenants would not have been considered trespassers. 44/

The same commenter who states that the Hawaiian Government and the native Hawaiians were one and the same entity for aboriginal title purposes, also expresses the view that the native Hawaiians were "citizens of an aboriginal nation with internal and external attributes of sovereignty." 45/ The juxtaposition of these views presents a conceptual problem. The legal fiction of aboriginal title was created to meet the need of various European sovereigns, who claimed fee title to the lands of North America (and later the United States as the successor sovereign), to acknowledge the possession of much of these lands by various Indian tribes. 46/ Thus, when an Indian tribe holds aboriginal title to certain lands this means that the tribe has a right of use and occupancy of such lands, while the sovereign (an entity separate and distinct from the members of the tribe viewed as a group or the tribal government) holds the fee title to said lands. Accordingly, if these two views are correct and the Hawaiian Government was, in fact, simultaneously both the single landowning entity and the sovereign, then such a state of facts is diametrically opposed to the concept of aboriginal title, which rests upon the existence of two separate entities (the native group that is the single landowning entity and the sovereign).

The second test for aboriginal title is that the single landowning entity had actual and exclusive use and occupancy of the specified lands (here, the Government and Crown lands) for a long time before title was extinguished. 47/ Actual and exclusive use and occupancy for a long time prior to 1893 or 1898 48/ and continuing up to 1893 or 1898--the alleged dates of extinguishment 49/--must be established by clear and definite proof. 50/ Because such a large portion of the Crown and Government lands was patented or sold to individuals (either native Hawaiians or foreigners) or leased to foreigners by 1893, actual and exclusive use for a long time up to that date cannot easily be shown. Courts require that occupancy be actual and not "merely asserted." 51/ Moreover, in making a determination as to the area that was actually and exclusively used and occupied, the courts will take into account a loss of population of the landowning entity prior to the alleged date of extinguishment of aboriginal title. 52/ Between 1853 and 1896 the number of native Hawaiians dropped from 70,036 to 31,019. 53/ Even before 1893, therefore, the trend was a dramatic decline. Moreover, since the native Hawaiians did not have a nomadic culture, actual and exclusive use and occupancy of the extensive area of Crown and Government lands is even more difficult to establish. 54/

The final test for aboriginal title is that the use and occupancy must have continued for a long time before being extinguished. Prior to the Great Mahele, given the system of occupancy by chiefs, rather than by the people in common, 55/ it is doubtful if common use and occupancy by all native Hawaiians existed. Between the time of the Great Mahele in 1848 and 1893, much of the Government and Crown land was converted to fee simple ownership by non-natives and natives, and much of this land was used by non-natives. Thus, it does not appear that common use and occupancy of the Crown and Government lands by all native Hawaiians existed between 1848 and 1898. 56/

It cannot be established, therefore, that the native Hawaiians meet the above three tests for showing the existence of aboriginal title.

Did the United States Extinguish Whatever Aboriginal Title Existed?

The assertion was made in a comment received by the Commission that aboriginal title to the Crown and Government lands still existed in 1898 and was extinguished by the United States by means of the Joint Resolution of Annexation. 57/ This comment rests in large part on the premise that during the period between the establishment of the Provisional Government in 1893 and 1898 aboriginal title was not extinguished, "...since only voluntary abandonment of these lands by native Hawaiians would divest native Hawaiians of aboriginal title." 58/ The statement that the aboriginal title of the native Hawaiians could only be extinguished by voluntary abandonment assumes that the Hawaiian Government was the single landowning entity for purposes of holding aboriginal title. Under traditional principles of Indian law, aboriginal title can be extinguished by voluntary abandonment or by actions of the sovereign that are inconsistent with the existence of aboriginal title. 59/ If the Hawaiian Government was not the single landowning entity, then the Hawaiian Government as sovereign (that is, as an entity separate from the native Hawaiians) took actions that were inconsistent with the existence of aboriginal title and that extinguished said title. If the Hawaiian Government was the single landowning entity, then these same actions, in effect, constituted a voluntary abandonment of aboriginal title. 60/

The facts of land ownership in Hawaii underscore that even if the tests for aboriginal title had been met, such title was extinguished by actions of the Hawaiian Government before 1893 (that is, actions of the sovereign that were inconsistent with aboriginal title) and certainly before annexation, which is the first time the United States assumed sovereignty. The Kuleana Act of 1850 terminated the right of pasturage and the right of commoners to grow crops on unoccupied lands of the ahupua'a. 61/ Other Hawaiian legislative acts had the effect of allowing foreigners to purchase Government lands. By 1893, over 600,000 acres of Government land had been sold to foreigners (non-natives) and 752,431 acres of Government and Crown lands had been leased to foreigners. 62/ By thus having "asserted and exerted full dominion" over Crown and Government lands, the government of Hawaii (which as sovereign had the authority to extinguish aboriginal title) had taken actions specifically inconsistent with the continued existence of aboriginal title. 63/ Legislation enacted by the sovereign can effect an extinguishment of aboriginal title. 64/ Settlement and/or use of aboriginal title lands by non-natives that is authorized by the sovereign--here the government of Hawaii--operates to extinguish aboriginal title. 65/

In sum, termination of the native Hawaiians' right to grow crops and right to pasturage on the unoccupied lands of ahupua'a (pursuant to the Kuleana Act of 1850), the purchase of Government lands by natives and foreigners (authorized by various acts passed by the Hawaiian legislature), and the statutes authorizing foreigners to lease Crown and Government lands (together with the actual leasing of 752,431 acres of said lands by foreigners), taken together, served to effectuate an extinguishment of aboriginal title, if any had existed, to the Crown and Government lands. Therefore, if native Hawaiians had had any aboriginal title to the Crown and Government lands, that title was extinguished by the actions of the government of Hawaii before 1893. Similarly, if the Hawaiian Government was the single landowning entity and "represented" the native Hawaiians, 66/ then these very same actions constituted a relinquishment, in effect, of the native Hawaiians' right of use and occupancy of the Government and Crown lands (that is, abandonment of aboriginal title) prior to 1893. 67/

Importantly, "aboriginal title rights extinguished prior to the inception of United States sovereignty are not compensable claims against the United States." 68/ Comments received by the Commission suggest that even if the native Hawaiians were deprived of aboriginal title in 1893 by actions of the Provisional Government (or by the establishment thereof) the United States would, nonetheless, be liable under applicable Indian law. 69/ Such liability is premised on decisions under the Indian Claims Commission Act holding the United States liable for the removal of minerals by third parties from aboriginal title lands prior to the date of extinguishment of aboriginal title. 70/ However, in all of the cited cases the aboriginal title lands in question had become part of the territory of the United States (and thus the United States had sovereignty over these lands) prior to the actions of the third parties. 71/ Any actions of the Provisional Government in 1893 (or the establishment thereof in 1893) occurred prior to the inception of the United States' sovereignty over the Hawaiian Islands. Furthermore, the historical evidence shows that aboriginal title, if any had existed, was extinguished before 1893--that is, before the Provisional Government came into existence. 72/ In light of the foregoing, any United States' participation in the fall of the Hawaiian monarchy does not constitute an extinguishment of aboriginal title for which the United States is liable.

Right of Compensation for Loss of Aboriginal Title

Even if the native Hawaiians had had aboriginal title to the Crown and Government lands, and that title had been extinguished by the United States (tests that are not met), compensation for the loss of these lands would not be available under current law. The Fifth Amendment to the United States Constitution provides that the United States cannot take land without just compensation. Aboriginal title is not a vested property right, but instead only a right of occupancy, which the sovereign may terminate at any time without payment of compensation. 73/ Therefore, courts have held that its loss does not entitle the loser to compensation under the Fifth Amendment. 74/

Extinguishment of aboriginal title is compensable under Section 2 of the Indian Claims Commission Act (25 U.S.C. § 70a). 75/ However, to be compensated, claims under that Act had to be filed by 1951. Therefore, under present law, no authority is available under which compensation can be sought. 76/

In conclusion, the native Hawaiians do not meet the above three tests for establishing aboriginal title to lands in Hawaii, including the Crown and Government lands designated by the Great Mahele. Further, even if aboriginal title were established, it was extinguished by acts of the Hawaiian Government prior to 1898, when the United States, through annexation, became the sovereign. Therefore, the native Hawaiians are not entitled to compensation for such extinguishment by the United States under existing law. Finally, even if the United States had extinguished aboriginal title, no present law provides for compensation for that loss.

C. RECOGNIZED TITLE AND COMPENSATION

The second legal principle under which the United States may compensate for loss of land is if the United States has "recognized"--acknowledged by its laws--the title of the native group to the land. 77/ Again, specific legal requirements to establish that the United States has recognized title must be met. "Recognized" title, in federal law, occurs when Congress has granted an Indian tribe the "right to occupy and use" certain lands permanently. 78/ "Recognized" title means the grant to an Indian tribe of "rights in land which were in addition to the Indians' traditional use and occupancy rights exercised only with the permission of the sovereign..." 79/ This section of the chapter analyzes those requirements in light of native Hawaiian history.

First, recognized title must come from the United States Congress. 80/ Before 1898, the Hawaiian Islands were not part of the territory of the United States. Therefore, Congress had no jurisdiction over the native Hawaiians, unlike the Indian tribes. 81/ The United States could not, then, have granted recognized title to the Government and Crown lands prior to the time when the United States exercised sovereignty over the Hawaiian Islands.

Because only Congress can accord recognized title, the Hawaiian king's setting aside of about 1.5 million acres of Government lands to "the chiefs and the people of my Kingdom," and the approval of this action by the Hawaiian legislature by the Act of June 7, 1848, cannot be a grant of recognized title. 82/

Similarly, because Congress can grant recognized title only when it can exercise sovereignty, such title could not be established by the United States through various treaties and agreements before 1898. 83/ Therefore, an unratified treaty between the United States and the Hawaiian Kingdom negotiated in 1826, an 1849 treaty (relating to friendship, commerce, and navigation), and the 1875 Reciprocity Treaty (concerning trade) cannot constitute recognition by the United States of the title of the native Hawaiians to the Government and Crown lands. 84/ Further, an unratified treaty cannot possibly be the source of recognized title. 85/ A treaty of peace and friendship does not constitute a grant of recognized title even though it may acknowledge that the particular tribe or band is living in a certain area. 86/ Moreover, these treaties were not made with the native Hawaiians, but with the Hawaiian Government. 87/

The native Hawaiians claim that they held recognized title to the Government and Crown lands. Comments received by the Commission in support of this claim make a two-part argument. Part one consists of several assertions. First, it is asserted that the Hawaiian Government held recognized title to the Crown and Government lands because a formal title to these lands was "confirmed in the native government by the Mahele and subsequent actions." 88/ In addition, it is asserted that there is no distinction to be made between the native Hawaiians and the Hawaiian Government and that they were one and the same, insofar as holding recognized title to the Crown and Government lands is concerned. 89/ Thus, it is alleged, in effect, that the Mahele operated to vest title to the Government and Crown lands in the native Hawaiians. 90/

Part two of the recognized title argument is that the United States recognized and acknowledged the rights of the Hawaiian Government to its own lands: "...the United States by recognizing the sovereignty and domain of the Hawaiian Kingdom, also recognized the legitimacy of that government's title to its own lands." 91/

The essential premise of the recognized title claim is that the native Hawaiians and the Hawaiian Government are the same entity, rather than separate entities. However, Hawaiian law does not support the "same entity" theory, as the following considerations illustrate. First, the Hawaiian Government was viewed as an entity distinct from any natural persons. 92/ Second, in 1851, the Hawaiian legislature passed a statute providing for the appointment of agents to "sell Government lands to the people." 93/ Specifically, the statute provided for the *sale of Government lands* to the "natives." If, as OHA asserts, native Hawaiians and the Hawaiian Government were one and the same entity insofar as holding title to the Crown and Government lands was concerned, then there would have been no need for this statute, since the natives would already have been owners of the Government lands--supposedly by the operation of the Great Mahele. 94/ Third, native tenants who had long occupied what were deemed to be Government lands (but which had never been awarded to them or anyone else by the Board of Land Commissioners) were held to have neither title to nor the right of possession of these lands but were, in effect, mere trespassers. 95/ This holding cannot be reconciled with the theory that the Hawaiian Government and the native Hawaiians were one and the same entity, insofar as holding recognized title to the Crown and Government lands was concerned. 96/ Finally, when the owner of a *kuleana* (a native tenant) died without heirs, title to the land did not revert to the Government, but to the owner of the *ahupua'a* or *ili* in which the *kuleana* was located. 97/

The second premise underlying the recognized title claim (after the "same entity" theory) is that the 1840 Constitution and/or the Great Mahele of 1848 operated, in effect, to vest title to the Government and Crown lands in the native Hawaiians. 98/ The validity of this premise must be determined by reference to Hawaiian law.

The thrust of the Constitution of 1840 was that the chiefs and people had rights to land. 99/ However, as of 1845, the chiefs and people had "...only a qualified right of possession to lands. They had no titles to them." 100/ Pursuant to the Act of December 10, 1845 (which established the Board of Land Commissioners), 101/ King Kamehameha III "...relinquished his claim of ownership as sovereign to over two-thirds of the entire territory of the Kingdom, in order that the same might be awarded to the chiefs and common people by the Land Commission." 102/ Until this act was passed the title to land was in the king himself. 103/ Thus, the Act of December 10, 1845 "...paved the way for the chiefs and people to obtain title to the lands occupied by them respectively--something they theretofore did not have." 104/ Accordingly, the 1840 Constitution did not operate so as to vest title to the Government and Crown lands in the native Hawaiians.

Furthermore, the provision of the 1840 Constitution entitled "Exposition of the Principles on Which the Present Dynasty is Founded" (which states that all land "belonged to the chiefs and people in common") is not found in the subsequent 1852 Constitution. 105/ As a general rule, "the adoption of a new constitution repeals and supersedes all the provisions of the older [former] constitution not continued in force by the new instrument." 106/ Indeed, a provision in a constitution that is not contained in subsequent constitutions does not remain in effect. 107/ After 1852, only the 1852 Constitution was in effect. 108/ With respect to the legal impact of a new constitution, the Hawaiian Supreme Court held in 1892 that when a new constitution takes effect:

> ...it is a new departure in the government of the country, inasmuch as it states anew the principles upon which the government is to be administered, and rearranges the distributions and limitations of sovereign powers. What is not changed is re-affirmed. *The new statement of the fundamental law takes the place of the old*. 109/

The operative effect of the Great Mahele of 1848 has been described as follows:

> The Mahele did not give title. It did give the chiefs the opportunity to take their Maheles [divisions] to the Land Commission and receive awards of title thereon just as the common people had presented to the Commission their claims for titles to their *kuleana*. Title was derived from the awards.
>
> That the common people were not parties to a "division" is shown by the fact that the *kuleana* which were awarded to them were regarded as being carved out of or subtracted from the *ahupua'a* and *ili* in which they respectively were situated.
>
> [The Mahele has thus been characterized as the]...process of rearranging and distributing the land among the claimants who applied for title to it. 110/

There is no indication that the Great Mahele has been construed as having, in and of itself, vested any title to the Government and Crown lands in the native Hawaiians. 111/ Rather, with respect to the Government lands, the only common interest obtained by native Hawaiians, as a group, by virtue of the Great Mahele was a common right to present claims for particular Government lands to the Board of Land Commissioners (and later the Minister of the Interior) in order that the Board (or Minister) might make awards of lands claimed. 112/ Indeed, even after the Great Mahele, "Government" lands not awarded by the Board of Land Commissioners (or the Minister of the Interior) were considered to belong to the Government. 113/

With regard to the Crown lands, the Great Mahele did not operate so as to vest title thereto in the native Hawaiians. Rather, title to the Crown lands was in the king. 114/ Title to these lands remained in the king 115/ (or in the office of the sovereign) 116/ until 1893 when the monarchy ceased to exist, whereupon they became Government lands. 117/ When the former Crown lands became Government lands, title to the former Crown lands became vested in the Provisional Government. 118/

In sum, native Hawaiians, as a group, did not obtain a "formal, vested title" 119/ to the Government and Crown lands. Accordingly, the basic premises of the recognized title claim are invalid. 120/

The crux of the second part of the recognized title argument is that the "...federal government did recognize and acknowledge the existing government of Hawaii and the rights of that government to the territory within its domain." 121/ This theory contends that the unratified treaty between the United States and the Hawaiian Kingdom negotiated in 1826, together with the 1849 and 1875 treaties noted above, effected an acknowledgment and recognition of the rights of the Hawaiian Government to lands within its domain. 122/

The source of recognized title is the United States Congress, and Congress can grant recognized title to land only when it exercises sovereignty over said land. 123/ Prior to 1898, the Hawaiian Islands were not part of the territory of the United States and Congress did not have sovereignty over them. Accordingly, the "recognized" title theory advanced cannot be reconciled with these requirements for the existence of recognized title. Moreover, the alleged recognition and acknowledgment by the United States of the "rights" of the Hawaiian Government to the territory within its domain, is analogous to a situation where Congress, by statute, accords a native group only the right of "permissive occupation"--in effect, an "acknowledgment" that a native group occupies and uses certain lands in its possession. 124/ Yet, such an "acknowledgment" does not give rise to recognized title. 125/ Similarly, a treaty that acknowledges only that a particular native group is occupying and using certain lands does not give rise to recognized title. 126/ As noted previously, an unratified treaty cannot be the source of recognized title. 127/

Since the Hawaiian Islands were not part of the territory of the United States prior to 1898, Congress had no sovereignty over the Hawaiian Islands and, therefore, no jurisdiction over the native Hawaiians prior to 1898. Thus, Congress could not have granted native Hawaiians recognized title to the Crown and Government lands prior to annexation. Accordingly, no grant of recognized title to the native Hawaiians, as a group, was possible by virtue of the one unratified and two ratified treaties that predated annexation. 128/

Nor did the Joint Resolution of Annexation constitute a recognition of title for native Hawaiians. 129/ The section of the Joint Resolution relating to public lands designates as beneficiaries the "inhabitants of the Hawaiian Islands," not "native Hawaiians." 130/ This use of language is particularly important because Congress was well aware of the existence of the native Hawaiians, and looked on them as distinct from the rest of the residents of Hawaii. 131/ Congress also viewed the "native Hawaiians" as a distinct ethnic group. 132/ Finally, the legislative history of the Joint Resolution makes clear that the "inhabitants of the Hawaiian Islands" were viewed as being all 109,000 people living on the Hawaiian Islands. 133/ If Congress had meant to recognize title of the native Hawaiians in the Joint Resolution of 1898, it would, among other things, have used the term "native Hawaiians" rather than "inhabitants of the Hawaiian Islands."

The Organic Act of 1900 also did not establish recognized title of the native Hawaiians to the ceded lands. 134/ The Organic Act of 1900 provides, in part: "The laws of Hawaii relating to public lands... shall continue in force until Congress shall otherwise provide." 135/ This provision is similar to a clause in Alaska's Organic Act, which at Section 8 provides, in part:

> ...That the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress...136/

The Supreme Court has held that this provision of the Alaska Organic Act did not indicate "any intention by Congress to grant to the Indians permanent rights in the lands of Alaska occupied by them by permission of Congress." 137/ Rather, the Alaska Organic Act was designed "merely to retain the status quo until further congressional or judicial action was taken." 138/ The Hawaiian Organic Act must be similarly considered not to grant a permanent right of use and occupancy in Crown and Government lands to native Hawaiians. Further, unlike the Alaska Act, the Hawaii Act does not refer to natives. 139/

Some comments received by the Commission assert as a sort of corollary in support of the recognized title claim that the United States has followed a consistent policy of respecting "...property rights of native people recognized under prior governments. Congress and the courts have long respected grants to native peoples under the laws of another sovereign." 140/

It is an established principle of international law that private property rights in territory ceded by one nation to another are not affected by the change of sovereign and are entitled to protection. 141/ This rule would apply if the claimed property of native Hawaiians was considered as having been segregated from the public domain of the prior sovereign before the annexation of Hawaii. 142/ It is necessary to examine the law of the prior sovereign before the cession (that is, Hawaiian law) in order to determine whether the claimed property was regarded as having been separated from the public domain of the prior sovereign. 143/

Government lands that were not awarded by the Board of Land Commissioners (or by the Minister of the Interior) were considered to belong to the Hawaiian Government. 144/ The Crown lands became Government lands in 1893 after the monarchy ceased to exist. 145/ Lands that belonged to the Hawaiian Government were considered as comprising the "public domain." 146/ Since title to the Government lands was in the Hawaiian Government, it follows that the Government (and former Crown) lands were part of the public domain. 147/ Thus, the rule of international law invoked is not applicable to the Crown and Government lands. Even the claimed property rights of native groups are not protected by this rule in those instances where the property in question was not considered as having been separated from the public domain of the prior sovereign. 148/

Moreover, the test traditionally used to determine whether the cited rule of international law is applicable to a claimed private property right is whether said right constituted a "vested" interest under the law of the prior sovereign before the cession of territory in question. 149/ Prior to annexation, the Constitution of 1840 was not construed as operating to create a vested private interest in the Government and Crown lands. Furthermore, the Constitution of 1840 was repealed by the 1852 Constitution. 150/ Nor was the Great Mahele interpreted as granting a vested private interest in the subject lands to the native

Hawaiians. 151/ Accordingly, the native Hawaiians did not have a "vested" interest in the Government and Crown lands under pre-annexation Hawaiian law.

If recognized title is not established, no compensation is due under the Fifth Amendment. 152/ Even if the native Hawaiians had been accorded recognized title by some action of the United States Congress, they cannot be compensated for the loss of that title. Any actions of the United States before 1898 cannot constitute a compensable claim under the Fifth Amendment for a "taking" of the Government and Crown lands without compensation, because the United States did not have sovereignty over the Hawaiian Islands prior to 1898. 153/ Annexation itself was not a taking under the requirements of the Fifth Amendment because it was not an appropriation of the Crown and Government lands for use by the Federal Government, pursuant to a Congressional authorization. 154/ Section 91 of the Organic Act of 1900 confirms this fact by providing that the "public property" (Crown and Government lands) ceded to the United States under the Joint Resolution of Annexation:

> ...shall be and remain in the possession, use and control of the government of the Territory of Hawaii, and shall be maintained, managed and cared for by it, at its own expense, until otherwise provided by Congress, or taken for the uses and purposes of the United States by direction of the President or of the governor of Hawaii. 155/

Section 91 (in conjunction with Section 73, which authorized the Territory of Hawaii to sell, exchange, and lease the public lands) has been interpreted as follows:

> Those provisions [Sections 73 and 91] did not create a mere agency on the part of the Territory to act for the Federal Government. They constitute a delegation of legislative power from Congress to the Territory. Conveyances made pursuant to the power are not conveyances of the United States of America executed by the territorial officers as agents, but they are conveyances of and by the Territory in its own right pursuant to the Acts of Congress. This follows from the fact that the Territory has complete possession and control of the public lands with the power to dispose of them. 156/

Therefore, the native Hawaiians would not be entitled to Fifth Amendment compensation for loss of recognized title, if it were established. 157/

In sum, Congress must grant recognized title, not the government of Hawaii. Moreover, the United States could not have granted such recognized title before 1898 because it did not have sovereignty over the Hawaiian Islands. The actions it took in and after 1898--particularly annexation and passage of the Organic Act of 1900--did not create recognized title, because they did not grant the native Hawaiians the right to use and occupy the Government and Crown lands permanently. Even if recognized title were established, under the facts of the Hawaiian experience, loss of that title would not be compensable under either the Fifth Amendment to the United States Constitution or under the Indian Claims Commission Act. Under present law, therefore, the native Hawaiians have no legal right to compensation for loss of their land.

D. LOSS OF SOVEREIGNTY AND COMPENSATION

Native groups have also made claims that they should be given compensation for loss of "sovereignty." This section defines sovereignty and then considers whether the law provides compensation for its loss in the context of the facts relevant to native Hawaiians.

The Office of Hawaiian Affairs defines sovereignty as the power to control internal and external affairs and the right of self-government. 158/ The United States courts have examined the concept of sovereignty for Indian tribes and that consideration would be applicable as well to native Hawaiians:

> The powers of the Indian tribes are, in general, "inherent powers of a limited sovereignty which has never been extinguished..." Before the coming of Europeans, the tribes were self-governing sovereign political communities. [Cites omitted].
>
> Indian tribes are, of course, no longer "possessed of the full attributes of sovereignty."...Their incorporation with the territory of the United States, and their acceptance of its protection, necessarily divested them of some aspects of the sovereignty which they had previously exercised...But our cases recognize that the Indian tribes have not given up their full sovereignty. We have recently said: "Indian tribes are unique aggregations possessing attributes of sovereignty over both their members and their territory..." The sovereignty that the Indian tribes retain is of a unique and limited character. It exists only at the sufferance of Congress and is subject to complete defeasance. But until Congress acts, the tribes retain their existing sovereign powers. In sum, Indian tribes still possess those aspects of sovereignty not withdrawn by treaty or statute, or by implication as a necessary result of their dependent status...159/

The part of their sovereignty that Indian tribes have "implicitly lost by virtue of their dependent status" is the power to control their external relations with non-members of the tribe. 160/ As a result, Indian tribes are not free to alienate their land to non-Indians, to have "direct commercial or governmental relations with foreign nations," or to exercise criminal jurisdiction over non-members in tribal courts. 161/

The sovereignty retained by Indian tribes encompasses the power of tribal self-government and the power to control internal relations among the members of the tribe. 162/ Thus, Indian tribes retain their power to determine tribal membership, regulate domestic relations, promulgate rules of inheritance for tribal members, and exercise criminal jurisdiction over tribal members. 163/

For native Hawaiians, by analogy, there are claims that native Hawaiians lost all attributes of sovereignty--the power to deal with foreign nations, to control internal relations, and to govern themselves. It has been argued that the power of self-government was effectively lost with the establishment of the Provisional Government in 1893, and was totally lost when the Territorial Government was established pursuant to the Organic Act of 1900 (31 Stat. 141). 164/ Even if history had fully established these claims, which the preceding chapter does not, native Hawaiians could not be compensated for loss of sovereignty.

For native groups, including Indian tribes and native Hawaiians, sovereignty "exists only at the sufferance of Congress and is subject to complete defeasance." 165/ In short, Congress can take away sovereignty of native groups at will, once it exercises sovereignty over the group. In terms of native Hawaiians, the United States was dealing with the government of Hawaii as another sovereign until 1898. Courts will not look behind the United States' recognition of a foreign government; so before 1898, no action of Congress could be regarded as taking the sovereignty of Hawaii. 166/

Even after 1898, any effect which Congress' actions may have had on the sovereignty of native Hawaiians cannot give rise to a compensable claim. Since Congress can take away the sovereignty of native groups at will, sovereignty is not a property right subject to the Fifth Amendment, and its loss is not compensable. 167/ Moreover, a claim of compensation for loss of sovereignty is not a viable cause of action, even under the liberal provisions of the Indian Claims Commission Act (60 Stat. 1049, 25 U.S.C. § 70, et seq). The legislative history of the Indian Claims Commission Act indicates no intention on the part of Congress to create a cause of action for loss of sovereignty and the Indian Claims Commission has so held. 168/ Even if there were theoretically a viable cause of action for loss of sovereignty under the Indian Claims Commission Act, the United States did not assume a special duty to protect the sovereignty of the native Hawaiians under either the Organic Act of 1900 or the Joint Resolution of Annexation (or under the one unratified treaty and two ratified treaties with Hawaii that pre-dated Annexation), so that the requirements for such a claim would not have been met. 169/ Further, such a claim would have to have been filed by 1951. 170/ The analysis under the Fifth Amendment and the Indian Claims Commission Act is not changed by the fact that the Joint Resolution was not submitted to a plebiscite in Hawaii. Indeed, it has been held that the Joint Resolution was legal and proper. 171/

The Alaska Native Claims Settlement Act (ANCSA) also does not appear to support the claim of compensation for loss of sovereignty. ANCSA compensated the Alaska Natives for loss of aboriginal title, if any, and for the termination of all claims based on that title. 172/ Furthermore, the legislative history of ANCSA shows that Congress did not intend to extinguish claims "based upon grounds other than the loss of original Indian title land." 173/ Since Congress did not intend to extinguish claims based upon grounds other than loss of aboriginal title, the compensation paid under ANCSA was clearly not payment for any claim for loss of sovereignty by the Alaskan Natives. In sum, ANCSA did not provide for compensation for loss of sovereignty by Alaskan Natives, and, therefore, provides no analogy for compensation to native Hawaiians for loss of sovereignty.

Therefore, the native Hawaiians have no present legal entitlement to compensation for any loss of sovereignty against the United States. 174/

E. TRUST RELATIONSHIP BETWEEN THE NATIVES OF HAWAII AND THE UNITED STATES

If a special trust relationship between the Federal Government and native Hawaiians exists that is very similar to the trust relationship between the Federal Government and United States Indian tribes, 175/ failure of the United States to meet the terms of the trust may (but does not necessarily) provide a basis for compensation. 176/ The theory has been advanced that, "It has long been recognized that a special relationship, characterized as a fiduciary relationship, exists between the Federal Government and Indian tribes," 177/ and that, "The federal-Hawaiian native relationship arises from United States' participation in the overthrow of the native government and subsequent federal ownership of the legal title to native lands." 178/

A fiduciary relationship between the Federal Government and an Indian tribe can, as a general rule, arise only from provisions of a treaty, statute, or agreement whereby the Government assumes fiduciary obligations toward the tribe. 179/ No fiduciary (trust) relationship arose from the fact that the United States Minister in Hawaii supported establishment of the Provisional Government in 1893. (Regarding this history, see preceding chapter.) The salient fact is that the Hawaiian Islands were not part of the United States in 1893, and the Federal Government exercised no sovereignty over them. 180/ The sovereignty of the Federal Government over Indian tribes arises from the fact that these tribes reside within the boundaries of the United States. 181/ In the absence of sovereignty over the Hawaiian Islands, no fiduciary relationship could have existed between the natives of Hawaii and the Federal Government in 1893, or at any time prior to annexation. 182/

The Joint Resolution of Annexation (Joint Resolution No. 55 of July 7, 1898, 30 Stat. 750) also did not give rise to a fiduciary relationship between the United States and the native Hawaiians. The Joint Resolution provided that the revenues or proceeds from the ceded land shall (with specified exceptions) "...be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes." This language does not give rise to a fiduciary relationship with the native Hawaiians because it did not specify that the revenues and proceeds of the ceded lands were to be used solely for the benefit of the "native inhabitants of the Hawaiian Islands." 183/ Whether or not this language creates a trust relationship between the United States and all Hawaiians ("inhabitants") to superintend the use of these funds is a matter beyond the scope of this Commission, which is to examine the interests of native Hawaiians.

Similarly, the Organic Act of 1900 (31 Stat. 141) did not give rise to a trust relationship with the native Hawaiians. Section 73 of the Organic Act provided, in part, that funds derived from the "sale or lease or other disposal" of the ceded lands shall be "applied to such uses and purposes for the benefit of the inhabitants of the Territory of Hawaii as are consistent with the joint resolution of annexation..." Again, if Congress had intended Section 73 to apply specifically to "native inhabitants," it would have so provided.

More importantly, Section 91 of the Organic Act indicates lack of any intent by Congress to establish a fiduciary relationship with the native Hawaiians. Section 91 provides that the lands ceded by the joint resolution of annexation were to:

> ...remain in the possession, use and control of the government of the Territory of Hawaii, and shall be maintained, managed and cared for by it, at its own expense...

Since Congress in Section 91 of the Organic Act specifically provided that the Territory of Hawaii and not the Federal Government would control and supervise the ceded lands, no fiduciary or trust relationship between the native Hawaiians and the Federal Government exists. 184/

The fact that the title to the ceded lands was held by the United States did not give rise to a fiduciary relationship because Congress provided that the Territory of Hawaii would control and supervise these lands--not the Federal Government. 185/ Furthermore, pursuant to Section 5 of the Hawaii Admission Act (Act of March 18, 1959, 73 Stat. 4,5), the United States granted the State of Hawaii "the United States' title to all the public lands, and other public property within the boundaries of the State of Hawaii, title to which is held by the United States immediately prior to its admission to the Union." Since fee title to much of the ceded lands is no longer held by the Federal Government, no fiduciary relationship now exists as to the ceded lands, in any event.

Some commenters on the Commission's Draft Report assert that the Hawaiian Homes Commission Act of 1921 186/ and Hawaii's Admission Act 187/ "unequivocally establish a trust relationship between Native Hawaiians and the Federal Government." 188/ Yet even assuming this assertion is correct, 189/ such specific trusts do not establish the existence of a general trust that might require compensation for the Government and Crown lands. Only a trust duty with respect to these lands that arose prior to 1893 or 1898 might require payment of compensation. A trust duty must come into existence before it can be breached. 190/ Here, the acts that supposedly constituted the breach (that is, the Federal Government's participation in the fall of the Hawaiian monarchy and annexation) are said to have simultaneously given rise to the alleged trust duty. Yet the acts of breach cannot create a trust relationship. 191/

Even if a trust relationship between the Hawaiian natives and the Federal Government were to exist with respect to the Crown and Government lands (by virtue of the Joint Resolution of Annexation and the Organic Act), it is, at most, a very limited trust relationship. The requirement that revenues or proceeds from the ceded lands were (with certain exceptions) to be used "solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes" was at most a "special trust" that "merely restricted the uses to which the proceeds of such lands [the public lands of Hawaii] could be put." 192/ Additionally, even though the proceeds or revenues from the ceded lands may have been the subject of a "special trust," and even though the Federal Government held fee title to the ceded lands, these two circumstances did not "impose upon the Government all fiduciary duties ordinarily placed by equity upon a trustee." 193/ This limited trust relationship, if any, did not encompass any fiduciary duty of the Federal Government to protect the native Hawaiians in the possession of their lands because the Federal Government never assumed any such duty. 194/

There is most likely no specified trust relationship between the United States and the native Hawaiians established by law of the United States, requiring compensation to be paid for the Crown and Government lands or for loss of sovereignty. At most there is a very limited special trust. Native Hawaiians are therefore not entitled under existing law to compensation for any breach of a trust duty toward them.

F. COMPARISON WITH ALASKA NATIVE CLAIMS

The legal claims of the Alaska Natives that motivated passage of the Alaska Native Claims Settlement Act

(43 U.S.C. § 1601, et seq.) differed significantly from the claims of native Hawaiians. 195/

Non-Indian settlement of the western United States followed a three-step pattern. First, the land was acquired by treaty from the sovereign entity--France, Spain, Mexico, Great Britain, or Russia--claiming title. Second, some lands in the acquired territory were set aside for Indians. Third, the public land laws, which allowed people to enter into the acquired territories and settle thereon, were extended to all federally-owned land in the acquired territory, except land that had been specifically reserved for governmental purposes, such as Indian reservations.

In Alaska, however, only the first and third steps occurred. 196/ After the United States acquired title from Russia, the public land laws were extended to Alaska without there having been any effort by the United States to define Alaska Native rights to use land or set aside land for their exclusive use. However, as Congress extended the various public land laws to Alaska, it provided that nothing in the laws should be deemed to affect Alaska Native occupancy. In general, this meant that land actually occupied by an Alaska Native or a native group or village could not be acquired by a non-native under the public land laws. However, it has generally been held that a non-native could acquire title to vacant land that was subject to native "aboriginal" occupancy, rather than actual occupancy. 197/

When Alaska became a state, Congress authorized the State to select vast areas of federal land for its own use. 198/ The selection of land had to be approved by the Secretary of the Interior; however, he could give "tentative approval" to the State selection pending his final approval and issuance of a patent. Once the State had received "tentative approval," it could "conditionally" lease or sell the land to third parties. Another provision of the Statehood Act, however, required the State of Alaska to disclaim any interest in land that "may be held by any Indians, Eskimos, or Aleuts." Further, the Statehood Act provided that none of its provisions could be construed to "recognize, deny, enlarge, or impair any claim against the United States" [emphasis added] and that the resolution of any native land rights would be left to future legislation by Congress.

The Statehood Act thus had an irreconcilable conflict. Unlike the acts that extended the public land laws to Alaska but protected the lands natives actually occupied, the Statehood Act prohibited the State from selecting any lands that "might" be held by natives or even claimed by natives. Congress probably intended to protect lands that the natives used and occupied in an aboriginal manner from State selection, but no one was sure what those lands were or the extent of any native claim. The State did select some lands and received tentative approvals from the Secretary. The State then leased these lands to oil companies, which discovered oil on them. When oil was discovered, the native groups claimed aboriginal title to the land. The Secretary of the Interior then issued a land freeze preventing the State from receiving further tentative approvals of its selections pending resolution of the native claims. Moreover, Congress, in the Statehood Act, had reserved for itself the exclusive authority of defining native land rights through future legislation, so resolution by lawsuit was difficult. This impasse led to the enactment of the Alaska Native Claims Settlement Act which, for the first time in Alaska, defined the land rights of the natives and allowed the State to select its land from the federal lands not set aside for the natives by the Settlement Act.

In contrast, in Hawaii the land rights of the natives were determined by a series of laws from 1850 to 1898, subsequent to the Great Mahele of 1848, which established a mechanism for the acquisition of fee title. The Crown and Government lands established by the Great Mahele eventually became federal lands when Hawaii was annexed by the United States. Title to the lands was vested in the State of Hawaii by the Hawaiian Statehood Act, which does not contain a provision protecting native land rights similar to the one found in the Alaska Statehood Act.

Therefore, the reasons that impelled passage of the Alaska Native Claims Settlement Act are not present in the Hawaiian situation.

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The purpose of this chapter has been to examine the existing laws that are most likely to provide a basis for compensation to native Hawaiians for any loss of lands or loss of sovereignty. As set forth in detail here, the review shows that existing law provides no basis for such compensation. Therefore, special legislation would be required before any such payments could be made. Congress has responded in the past to native American claims: once with the passage of the Indian Claims Commission Act in 1946, and again in 1971 with the Alaska Native Claims Settlement Act.

EXISTING LAW, NATIVE HAWAIIANS, AND COMPENSATION

NOTES

1/ Melody K. MacKenzie, Sovereignty and Land: Honoring the Hawaiian Native Claim (Honolulu: Office of Hawaiian Affairs, 1982), pp. 75-79.

2/ Patrick Hanifin's comments were in the form of a detailed article that is scheduled to be published in the Hawaii Bar Journal in the Spring of 1983. The article is entitled "Hawaiian Reparations: Nothing Lost, Nothing Owed."

3/ This chapter looks at rights under present law only; it does not address whether Congress or the State Legislature should consider enacting new laws in these matters. Further, in response to comments received by the Commission, we reiterate that the chapter looks only at whether native Hawaiians have present legal rights to compensation. It does not address whether the United States' conduct in Hawaii at the end of the nineteenth century was proper, moral, or legal, or what account of it the United States should make. Those matters are left for the Conclusions and Recommendations section of the Report.

4/ Some comments received by the Commission on its Draft Report stated that the tone of this chapter is improperly adversarial. The chapter attempts to address the full range of views on the matters it covers; the approach is intended to be comprehensive rather than adversarial. Other commenters stated that comparisons of native Hawaiians to North American Indians, Eskimos, and Alaskan Natives were not appropriate. However, we have examined the experiences of and the laws applicable to these groups whose experience as native groups provides some similarities to the experience of native Hawaiians. Congressman Cecil Heftel, in his comments and other commenters recognize the use of such analogies or rely upon such analogies.

5/ Inupiat Community of the Slope v. United States, ___ Ct.Cl.__, 680 F.2d 122, 128 (1982), cert. denied, 103 S. Ct. 299 (1982).

6/ E.g., Northern Paiute Nation, et. al. v. United States, 7 Ind.Cl.Comm. 322, 412 (1959), aff'd, 183 Ct.Cl. 321 (1968).

7/ Quapaw Tribe v. United States, 128 Ct.Cl. 45, 49 (1954).

8/ United States v. Seminole Indians, 180 Ct.Cl. 375, 383 (1967).

9/ Ibid.

10/ Ibid.

11/ Caddo Tribe of Oklahoma v. United States, 35 Ind.Cl.Comm. 321, 339 (1975). One commenter (on the Draft Report) emphasized the view that the native Hawaiians held aboriginal title to Government and Crown lands as of 1898 and that this title was extinguished by the United States when annexation occurred (Melody K. MacKenzie, Comments on the Native Hawaiians Study Commission Draft Report, (November 1982), p. 25; hereinafter cited as "OHA's Comments").

12/ Claims in the absence of such a law are barred by the doctrine of sovereign immunity.

13/ In a draft alternate to this chapter, OHA comments that the native Hawaiians are "not asserting aboriginal title claims to Government and Crown lands which passed into fee simple ownership" (OHA's Comments, Alternate Chapter III, p. 7.) About 720,000 acres of Government and Crown lands passed into fee simple ownership before 1898 (see discussion, above, page 335 to 336, and Levy, *Native Hawaiian Land Rights*, 63 Calif. L. Rev. 848, 859 (1975)).

14/ The requirement of a single landowning entity is discussed fully in the cases cited below in footnote 15.

15/ *Confederated Tribes of the Warm Springs Reservation* v. *United States*, 177 Ct.Cl. 184, 206-207 (1966); *Nooksack Tribe* v. *United States*, 3 Ind.Cl.Comm. 479, 494-495 (1955), *aff'd*, 162 Ct.Cl. 712 (1963), *cert. denied*, 375 U.S. 993 (1964); and *Muckleshoot Tribe* v. *United States*, 3 Ind.Cl.Comm. 658, 674-675 (1955), *aff'd in part, vacated in part on other grounds*, 174 Ct.Cl. 1283 (1966), *cert. denied*, 385 U.S. 847 (1966).

16/ Levy, p. 859.

17/ Jon J. Chinen, *The Great Mahele; Hawaii's Land Division of 1848* (Honolulu: The University Press of Hawaii, 1974), p. 5.

18/ Gavan Daws, *Shoal of Time: A History of the Hawaiian Islands*, (New York: The MacMillan Company, 1968), pp. 124-5; see also above, chapter entitled "Diplomatic and Congressional History: From Monarchy to Statehood."

19/ Morris, *The Land System of Hawaii*, 21 ABA Journal 649, 650 (1935).

20/ Levy, pp. 854-855.

21/ Some commenters objected to the use of feudal terms in referring to native Hawaiians' land ownership patterns. The terms are used here to assist those who are not native Hawaiians in understanding land ownership patterns.

22/ Levy, pp. 855-857. The paper submitted to the Commission by the Office of Hawaiian Affairs, "Regarding the Legal Aspects," written by Melody MacKenzie and Jon Van Dyke, contends that although the *Kuleana* Act allowed individual native Hawaiians to obtain fee simple title to Crown or Government lands that they actually cultivated or Government lands they purchased, it did not extinguish the "people's" interest in the Crown and Government lands. See the discussion above, pages 335 to 336, and footnote 13, above. The MacKenzie/Van Dyke paper is reproduced in its entirety in the Appendix of this Report.

23/ Daws, p. 124.

24/ Levy, p. 857.

25/ *Ibid*., p. 859.

26/ *Ibid*.

27/ *Ibid*., p. 852, note 26.

28/ H. Rodger Betts, *Report on the Hawaiian Native Claims*, Second Draft (1978), p. 15. One comment received by the Commission states that the 1840 Constitution affirms that the native Hawaiians had aboriginal title to the Government and Crown lands.

29/ Chinen, *The Great Mahele*, pp. 25-29. Betts concedes that the lands at issue did not encompass 2,500,000 acres by 1898 (Betts, p. 15). Indeed, Congress believed that the "public lands" in Hawaii totaled only 1,740,000 acres. (H.R. Rep. No. 1355, 2nd Sess., p. 43 (1898)). MacKenzie states that the lands at issue total 1.75 million acres.

30/ Betts, pp. 15-20; MacKenzie, p 76. One commenter takes the position the Great Mahele did not extinguish aboriginal title. However, the Great Mahele was the process established when individuals could acquire fee simple ownership to Government and Crown land and thus obtain vested property interests. Such an action by the Hawaiian Government was inconsistent with the existence of aboriginal title to the Government and Crown lands, and together with other actions inconsistent with aboriginal title, operated to extinguish aboriginal title, if any had existed, prior to 1893.

31/ Nooksack Tribe v. United States, supra, 3 Ind.Cl.Comm. at 495.

32/ 3 Ind.Cl.Comm. at 494-495.

33/ Skokomish Tribe v. United States, 6 Ind.Cl.Comm. 135, 157-158 (1958). Cf. Red Lake, Pembina and White Earth Bands, et. al. v. United States, 164 Ct.Cl. 389, 393-394 (1964). The fact that land that is the subject of a claim of aboriginal title was explicitly included in a treaty of cession involving said land (and other land) does not establish the existence of aboriginal title.

34/ See discussion in text above.

35/ Karen Blondin, A Case for Reparations for Native Hawaiians, 16 Hawaiian Bar Journal 13, p. 27; Levy, pp. 857-859. In her article, A Case for Reparations, Karen Blondin argues that the Court of Claims decision in Liliuokalani v. United States, 45 Ct. Cl. 418 (1910) makes clear that land was collectively held and used by native Hawaiians. In Liliuokalani, the Court of Claims held that the lands held as Crown lands by the Queen should be treated as other Government lands, so that the Queen's loss of the lands did not give rise to a compensable taking for her. Since the Government lands, as discussed above, are not regarded as owned collectively by the native Hawaiians as a group, the ruling in Liliuokalani does not support Blondin's argument.

Further, in Sovereignty and Land, MacKenzie argues that the 1840 Constitution created a trust relationship among the king, chiefs, and people by citing a statute that reads:

> No man living on a farm whose name is recorded by his landlord, shall without cause desert the land of his landlord. Nor shall the landlord causelessly dispossess his tenant. (p. 6)

However, this statute was a mere instrument of the chiefs to keep the laborers of their land from leaving their homes for the developing cities of Honolulu and Lahaina (Levy, p. 851). It was not a statement of common use and ownership. These laws and the ones to follow were to represent a move toward the philosophy of individual ownership of land and a break from whatever common use may have existed in the traditional feudal land system.

36/ See footnote 16, above.

37/ Nooksack Tribe v. United States, supra, 3 Ind.Cl.Comm. at 494-495; Samish Tribe v. United States, 6 Ind.Cl.Comm. 159, 172 (1958).

38/ OHA's Comments, p. 23.

39/ Act of August 6, 1850 §7 [1850] Hawaii Laws 203 (2 Revised Laws (1925) at 2142); Hanifin, p. 18; and Levy, p. 857.

40/ Levy, p. 857, note 57, citing Oni v. Meek, 2 Haw. 87 (1858).

41/ OHA's Comments, p. 23.

42/ 1880 Session Laws, p. 56; cited by Hanifin, p. 18, note 16.

43/ *Thurston* v. *Bishop*, 7 Haw. 421, 438 (1888).

44/ Indian law recognizes that individual members of a tribe have the right to use tribal property. See e.g., *United States* v. *Cook*, 86 U.S. (19 Wall.) 591, 593 (1873); and *Whitefoot* v. *United States*, 155 Ct.Cl. 127, 133-135 (1961), *cert. denied*, 369 U.S. 818 (1962). *Cf*. *United States* v. *Jim*, 409 U.S. 80,82 (1972), *rehearing denied*, 409 U.S. 1118 (1973).

45/ OHA's Comments, p. 28.

46/ *Cherokee Nation* v. *Georgia* 30 U.S. (5 Pet.) 1, 16-18 (1832); and *Johnson* v. *McIntosh*, 21 U.S. (8 Wheat.) 543, 572-574 (1823).

47/ *Confederated Tribes of the Warm Springs Reservation* v. *United States*, *supra*; *Sac and Fox Tribe of Indians of Oklahoma* 161 Ct.Cl. 189, 201-202 (1963), *cert. denied*, 375 U.S. 921 (1963).

48/ It is argued that aboriginal title existed as of 1893 and/or 1898; see Betts, p. 14, MacKenzie, pp. 76 and 78.

49/ *Confederated Tribes of the Warm Springs Reservation* v. *United States*, *supra*, 177 Ct.Cl. at 194. To prove the existence of aboriginal title it must be shown that such title was not lost or abandoned prior to the alleged date of extinguishment. *Confederated Tribes of the Umatilla Indian Reservation* v. *United States*, 14 Ind.Cl.Comm. 14,116 (1964).

50/ *Quapaw Tribe* v. *United States*, 128 Ct.Cl. 45, 48-49 (1954).

51/ *Quapaw Tribe* v. *United States*, 1 Ind.Cl.Comm. 469, 488 (1951), *aff'd in part, rev'd in part on other grounds*, 128 Ct. Cl. 45 (1954). OHA states that "Native Hawaiians advance no argument as to 'constructive possession' of Government and Crown lands" (OHA's Comments, p. 23).

52/ *Puyallup Tribe* v. *United States*, 17 Ind.Cl.Comm. 1, 23-24 (1966). It appears that the Government and Crown lands constituted a defined area--one of the tests for aboriginal title.

53/ 31 Cong. Rec., p. 6261 (1898).

54/ *Cf*. *Caddo Tribe of Oklahoma* v. *United States*, 4 Ind.Cl.Comm. 218-219 (1956), *appeal dismissed*, 140 Ct.Cl. 63 (1957).

55/ See footnote 18, above; Jean Hobbs, *Hawaii: A Pageant of the Soil* (Stanford, Calif: Stanford University Press, 1935), pp. 4-6 and 12-16.

56/ OHA comments that notwithstanding the conversion of much land to "individual fee-simple ownership," the Government and Crown lands were "maintained as lands held by the Hawaiian Kingdom for the chiefs and people in common" (OHA's Comments, p. 24). In addition, OHA states: "One indication of the collective rights in these lands was the specific recognition of native rights of gathering and access on Government and Crown lands" (OHA's Comments, p. 24)

The first assertion refers to OHA's contention that the argument concerning extinguishment of aboriginal title is "irrelevant" because the Mahele confirmed the title to the Crown and Government lands in the Hawaiian Government and thus, in effect, confirmed the title in the native Hawaiians. This assertion is addressed in Part C of this chapter. The second contention ignores that portion of the *Kuleana* Act of 1850 that terminated the rights of native tenants to grow crops and pasture animals on Crown and Government lands. In addition, this statute was held to have effected an implicit repeal of all former gathering rights. This statute evidences an absence of collective rights in the Government and Crown lands.

57/ OHA's Comments, p. 25.

58/ Ibid., p. 24.

59/ United States v. Santa Fe Pacific Railroad Co., 314 U.S. 339, 347 (1941). OHA cites Mashpee Tribe v. New Seabury Corp., 592 F.2d 575 (1st Cir. 1979) with respect to abandonment of aboriginal title. However, this case concerned "abandonment" by the claimant of its tribal status and not abandonment of aboriginal title (592 F.2d at 586-587).

60/ Cf. Williams v. City of Chicago, 242 U.S. 434, 437-438 (1917); and Buttz v. Northern Pacific Railroad, 119 U.S. 55, 69-70 (1886).

OHA also states: "Under traditional principles of Indian law, forcible dispossession by non-natives [referring to the landing of American troops on January 17, 1893], is not voluntary abandonment and does not extinguish aboriginal title" (OHA's Comments, pp. 24-25). Temporary forcible disposession of an Indian tribe from its aboriginal title lands by the sovereign had been found to effect an extinguishment of title (Northern Paiute Nation, et al. v. United States, 7 Ind.Cl.Comm. 615, 616 (1959), aff'd, 183 Ct.Cl. 321 (1968)), but, as a general rule, temporary forcible dispossession does not operate to extinguish aboriginal title where there is no evidence of a Congressional intention to extinguish title (United States v. Santa Fe Pacific Railroad Co., 314 U.S. 339, 354-356 (1941)). Here, where the Federal Government was not the sovereign before 1898, the rule cited by OHA has no applicability.

61/ Levy, p. 857.

62/ One theory advanced in the comments received by the Commission is that leasing of Government and Crown lands is an example of "permissive use" of aboriginal title lands that did not effect an extinguishment of aboriginal title (see Senator Inouye's Comments, pp. 37-39).

The doctrine of "permissive use" refers to use of an Indian tribe's (or band's) aboriginal title lands by another Indian tribe or band; this use is specifically allowed by the tribe or band holding aboriginal title (Samish Tribe v. United States, 6 Ind.Cl.Comm. 159, 175 (1958); S'Klallam Tribe v. United States, 5 Ind.Cl.Comm. 680, 704 (1957)). The fact that non-native Hawaiians were allowed to use the Government and Crown lands is not evidence that the native Hawaiians held aboriginal title to these lands. Cf. Confederated Tribes of the Umatilla Indian Reservation v. United States, 14 Ind.Cl.Comm. 14, 119 (1964). "Permissive use" presumes the existence of aboriginal title (14 Ind.Cl.Comm. at 119). Furthermore, the use of Crown and Government lands was authorized by the Hawaiian Government--the sovereign--and not by the native Hawaiians.

63/ United States v. Santa Fe Pacific Railroad Co., 314 U.S. 339, 347 (1941); and Pillager Bands of Chippewa Indians v. United States, 192 Ct.Cl. 698, 705 (1970).

64/ United States v. Santa Fe Pacific Railroad Co., 314 U.S. 339, 347 (1941); Washoe Indian Tribe v. United States, 21 Ind.Cl.Comm. 447, 448 (1969); and cf. United States v. Northern Paiute Nation, 203 Ct.Cl. 468, 474-475 (1974).

65/ Cowlitz Tribe v. United States, 25 Ind.Cl.Comm. 442, 451 (1971), aff'd, 199 Ct.Cl. 523 (1972); Tlingit and Haida Indians v. United States, 147 Ct.Cl. 315, 336-342

(1959); Washoe Indian Tribe v. United States, 21 Ind.Cl.Comm. 447, 448 (1969); Pueblo de Zia v. United States, 19, Ind.Cl.Comm. 56, 64-65, 74-75, 77 (1968); and Pueblo of Taos v. United States, 15 Ind.Cl.Comm. 666, 702 (1965).

66/ OHA's Comments, p. 23.

67/ Cf. Williams v. City of Chicago, 242 U.S. 434, 437-438 (1917); and Buttz v. Northern Pacific Railroad, 119 U.S. 55, 69-70 (1886).

68/ Caddo Tribe of Oklahoma v. United States, 35 Ind.Cl.Comm. 321, 339 (1975); Pueblo de Cochiti v. United States, 7 Ind.Cl.Comm. 422, 450-454 (1959); and Pueblo de Isleta v. United States, 7 Ind.Cl.Comm. 619, 645-646 (1959), aff'd, 152 Ct.Cl. 866 (1961), cert. denied, 368 U.S. 822 (1961).

69/ OHA's Comments, p. 25; Senator Inouye's Comments, pp. 35-36.

70/ Temoak Band of Western Shoshone Indians v. United States, 219 Ct.Cl. 346 (1979), cert. denied, 444 U.S. 973 (1979); United States v. Fort Sill Apache Tribe, 209 Ct.Cl. 433 (1976); United States v. Northern Paiute Nation, 203 Ct.Cl. 468 (1974); and United States v. Northern Paiute Nation, 183 Ct.Cl. 321 (1968).

71/ See e.g., United States v. Northern Paiute Nation, 203 Ct.Cl. 468, 470 (1974). Furthermore, the cases cited in the preceding footnote involve situations where there was a treaty that prospectively authorized the acts of the third parties (219 Ct.Cl. at 356-357) or where there was a "subsequent ratification and adoption" by Congress of the acts in question (203 Ct.Cl. at 474; and 183 Ct.Cl. at 340). The actions of United States Minister Stevens that contributed to the overthrow of the monarchy were obviously not authorized by any pre-1893 treaty between the United States and Hawaii, nor were they subsequently adopted by Congress. Indeed, the actions of Stevens on January 17, 1893, do not appear to have been sanctioned by the Congress or the President. The United States Government is not liable for the acts of an agent that exceed the scope of the agent's authority. See Wisconsin Central Railroad Company v. United States, 164 U.S. 190, 210 (1896); Hawkins v. United States, 96 U.S. 689, 691-692 (1877); Whiteside, et al. v. United States, 93 U.S. 247, 256-257 (1876); and Filor v. United States, 76 U.S. (9 Wall.) 45, 48-49 (1869). The paper by Melody MacKenzie and Jon Van Dyke, "Regarding the Legal Aspects," contends that the Government is responsible for the acts of an agent. However, the United States is liable only when it expressly waives sovereign immunity, and it has done so in specific circumstances and then only for authorized acts.

Nor is the decision in Lipan Apache Tribe, et al. v. United States, 36 Ind.Cl.Comm. 7 (1975) controlling. In Lipan Apache, the United States was held liable for the acts of the third parties which effected an extinguishment of aboriginal title of certain Texas Indians to lands in Texas. The acts in question occurred after Texas was admitted to the Union as a State in 1845. By the terms of admission Texas retained ownership of public lands within Texas; however, the Federal Government held jurisdiction over Indian affairs within Texas (36 Ind.Cl.Comm. at 18). On May 15, 1846, the Federal Government entered into a treaty with the plaintiff Indian tribes whereby the tribes acknowledged themselves to be 'under the protection of the United States and no other power, state or sovereignty whatever' (36 Ind.Cl.Comm. at 51). The Commission found that subsequently (i.e., in the 1850's) the United States, through its military forces, had aided Texas authorities in placing the tribes on reservations, thereby extinguishing the plaintiff tribes' aboriginal title to their Texas lands.

The Commission held that by virtue of the 1846 treaty "...the United States had assumed the role of protector of those Texas Indians who participated in that treaty. In our judgment the Federal Government did not fulfill its role as protector of the Indians" (36 Ind.Cl.Comm. at 18-79). Under the circumstances the aboriginal rights of the plaintiff tribes had been "effectively extinguished by the United States" (36 Ind.Cl.Comm. at 19).

Even assuming, *arguendo*, that the Provisional Government extinguished the aboriginal title, if any, of the native Hawaiians to the Crown and Government lands, it does not follow that the United States would incur any liability for the acts of the Provisional Government on the basis of the *Lipan Apache* decision. This is because there are crucial differences between the situation in *Lipan Apache* and the situation here. First, Texas had been annexed by the United States and was part of the United States before the acts of third parties in question took place. By contrast, in 1893, the Hawaiian Islands were not part of the territory of the United States. Second, after the annexation of Texas, the United States was "in charge of Indian Affairs" in Texas (36 Ind.Cl.Comm. at 18). By comparison, as of 1893 the United States had no control over the affairs of native Hawaiians; sovereignty over native peoples only arises when their lands become included within the territorial boundaries of the United States (*Cherokee Nation* v. *Georgia*, 30 U.S. (5 Pet.) 1, 16-18 (1835)). Most importantly, in *Lipan Apache* the United States had assumed a duty to protect the Texas tribes that were parties to the 1846 treaty, thereby giving rise to a "special relationship" within the meaning of Section 2, Clause (5) of the Indian Claims Commission Act (25 U.S.C. §70a). Prior to 1893 (or 1898) the United States had entered into no treaty with either the Kingdom of Hawaii or the native Hawaiians as a group whereby it assumed the duty of protecting the native Hawaiians (including any duty to protect their possession of lands that they occupied). *Cf.* compare with *United States* v. *Oneida Nation of New York*, 217 Ct.Cl. 45, 55-59 (1978) which held there was a "special relationship" with the Oneida Nation because in a 1784 treaty the Federal Government had promised to protect the Oneidas in the possession of the lands the Oneidas occupied as of 1784.

72/ Senator Inouye states: "...it could be argued that the United States exercised some measure of control over the Hawaiian Islands long before annexation" (Senator Inouye's Comments, p. 37, note 17).

It has been suggested that the United States might be held liable under Section 2, Clause (5) for the Indians' loss of title to lands (which had never been part of the public domain of the United States) where there is "true concert, partnership or control of the Federal Government" with regard to the specific acts of third parties which effected an extinguishment of title. *Six Nations, etc.* v. *United States*, 173 Ct.Cl. 899, 904, 907-909 (1965). However, there are no decisions *holding* the United States liable under Clause (5) for the acts of third parties on the grounds of "true concert, partnership or control of the Federal Government." Moreover, in *Lipan Apache Tribe, et al.* v. *United States*, 180 Ct.Cl. 487, 502 (1967) the Court noted the language from the *Six Nations* opinion, but stated with respect to Section 2, Clause (5): "In any event, the United States is held liable under this 'fair and honorable dealings' clause not because it has title to the property, but because, by its own acts it has undertaken special duties which it has failed to fulfil" (180 Ct.Cl. 502). The comments have not established the existence of any special duties owed to the native Hawaiians. In addition, where a native group claims that the United States undertook certain trust responsibilities relating to that group (see OHA's Comments, pp. 29-30), liability turns on whether a "special relationship was created" (Cf. 180 Ct.Cl. at 502). Yet the wrongs complained of (i.e., United States' participation in the fall of the monarchy and the annexation of Hawaii) (see OHA's Comments, p. 30) cannot give rise to a "special relationship" under Clause (5). See Gila River Pima-Maricopa Indian Community, et al. v. United States, 190 Ct.Cl. 790, 800 (1970), cert. denied, 400 U.S. 819 (1970).

Finally, the central government under the Articles of Confederation possessed considerable jurisdiction over Indian affairs within the States. See United States v. Oneida Nation of New York, 217 Ct.Cl. 45, 62-65 (1978). By contrast, the Federal Government had no jurisdiction over native Hawaiian affairs prior to 1898.

73/ Tee-Hit-Ton Indians v. United States, 348 U.S. 272, 279 (1955).

74/ Tee-Hit-Ton Indians v. United States, supra, at 284-285. See also Inupiat Community of the Arctic Slope v. United States, ______ Ct.Cl. _____ 680 F.2d 122, 128-129 (1982), cert. denied, 103 S.Ct. 299 (1982).

75/ See e.g., Fort Sill Apache Tribe of the State of Oklahoma v. United States, 22 Ind.Cl.Comm. 527, 543 (1970).

76/ One commenter suggests that the statute of limitations is unfair since some native Hawaiians were born after 1951 and could not have filed claims earlier. However, the Indian Claims Commission Act is designed to compensate the claims of appropriate groups of individuals, not the claims of individuals. If they were qualified to file a claim under the Act, native Hawaiians did not file before August 13, 1951.

77/ MacKenzie, pp. 75-76, 83.

78/ Sac and Fox Tribe of Indians of Oklahoma v. United States, 161 Ct.Cl. 189, 197 (1963), cert. denied, 375 U.S. 921 (1963).

79/ Ibid., emphasis added.

80/ Ibid., p. 192.

81/ Sovereignty over Indian tribes comes from their presence within the territorial boundaries of the United States. Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1, 16-18 (1832).

82/ See MacKenzie, p. 76. She argues that the 1848 Act affirmed the aboriginal title in these lands "to the Hawaiian people as a collective group" and "recognized the traditional use rights of native tenants." She further contends that deeds executed by Kamehameha III and approved by the Hawaiian legislature evidenced recognized title. Ibid., p. 83.

83/ Sac and Fox Tribe v. United States, supra, 161 Ct.Cl. at 192.

84/ The theory that these acts do accord recognized title is in MacKenzie, pp. 83-85. For discussion of these treaties see preceding chapter above.

85/ Coos Bay, Lower Umqua and Siuslaw Indian Tribes v. United States, 87 Ct.Cl. 143, 153 (1938), cert. denied, 306 U.S. 653 (1939).

86/ Sac and Fox Tribe v. United States, supra, 161 Ct.Cl. at 192-193; and Northwestern Band of Shoshone Indians v. United States, 95 Ct.Cl. 642, 657-661, 681-684 (1942).

87/ See also United States v. Mowat, 582 F.2d 1194, 1206 (9th Cir. 1978), cert. denied, 439 U.S. 967 (1978), which implies that the native Hawaiians had no recognized title to the lands at issue.

88/ OHA's Comments, pp. 23, 25-26.

89/ *Ibid*. The contention that the Hawaiian Government was the "single landowning entity," for aboriginal title purposes has been addressed previously (see pp. 336 to 337 above).

90/ OHA asserts "...the title held by native Hawaiians may have been not only aboriginal in nature, but also a formal, vested title" (OHA's Comments, Alternate Chapter III, p. 12). The alleged "communal rights of native Hawaiians" to the Crown and Government lands (supposedly granted by the 1840 Constitution and confirmed by the Great Mahele) are equated with land titles conferred by foreign governments (e.g., such as titles conferred by Spanish land grants). (Senator Inouye's Comments, pp. 39-40.) Thus, Senator Inouye, too, is effectively asserting that title to the Government and Crown lands was in the native Hawaiians.

91/ OHA's Comments, p. 26. Again, OHA states that the native Hawaiians and the Hawaiian Government are not separate entities. The following discussion in the text also responds to the views of Keith S. Abe.

92/ *Thurston* v. *Bishop*. 7 Haw. 421, 437-438 (1888); *Harris* v. *Carter*, 6 Haw. 195, 201 (1877); and *Kenoa* v. *Meek*, 6 Haw. 63, 65 (1872). See also Hanifin, pp. 16-18.

It should be noted that ownership of the Crown lands was in the king. *In the Matter of the Estate of His Majesty Kamehameha IV*, 2 Haw. 715 (1864). The Court of Claims held that the Crown lands belonged to the office of the sovereign rather than the sovereign as an individual and became Government lands when the monarchy ceased to exist in 1893. *Liliuokalani* v. *United States*, 45 Ct.Cl. 418, 426-428 (1910).

93/ Act of July 11, 1851 [1851] Hawaii Laws 52 (2 Revised Laws (1925) at 2196)).

94/ There were also other statutes providing for sale of Government land to the people; e.g., 1874 Session Laws, Ch. 24; 1876 Session Laws, Ch. 44 and 1878 Session Laws Ch. 5; and 1884 Session Laws, Ch. 45; cited by Hanifin, p. 16.

95/ *Thurston* v. *Bishop*, 7 Haw. 421, 437-438 (1888).

96/ Indian law recognizes that individual members of a tribe have the right to use tribal property. *United States* v. *Cook*, 86 U.S. (19 Wall.) 591, 593 (1873); and *Whitefoot* v. *United States*, 155 Ct.Cl. 127, 133-135 (1961), *cert. denied*, 369 U.S. 818 (1962). *Cf. United States* v. *Jim*, 409 U.S. 80, 82 (1972), *rehearing denied*, 409 U.S. 1118 (1973).

97/ Hobbs, p. 41, note 17.

98/ OHA asserts that the title to the Crown and Government lands "held by native Hawaiians may have been not only aboriginal in nature, but also a formal, vested title" (OHA's Comments, Alternate Chapter III, p. 12). In addition, OHA contends that: (1) the native Hawaiians and the Hawaiian Government were one and the same entity insofar as holding title to the subject lands is concerned; and (2) the Great Mahele operated so as to vest a "formal title" to said lands in the Hawaiian Government (OHA's Comments, pp. 23, 25-26). Also, Senator Inouye alleges, in effect, that the 1840 Constitution granted the native Hawaiians' title to the Crown and Government lands (Senator Inouye's comments, pp. 39-41).

99/ Daws, p. 125, and Hobbs, p. 29. The Hawaiian Supreme Court held in 1977 that the 1840 Constitution "acknowledged that the people of Hawaii are the original owners of all Hawaiian land," *State* v. *Zimring*, 58 Haw. 106, 111 (1977). The *Zimring* opinion ignores the fact that the 1840 Constitution was repealed by the 1852

Constitution (see discussion in text below, page 342). Also, the opinion does not state that the 1840 Constitution operated so as to vest title to the Crown and Government lands in the native Hawaiians. To the extent that it may imply that the 1840 Constitution did vest title, such an interpretation cannot be reconciled with the language of Thurston v. Bishop.

100/ Thurston v. Bishop, 7 Haw. 421, 433 (1888).

101/ [1847] Hawaii Laws 107 (2 Revised Laws (1925) at 2120); cited by Levy, p. 853.

102/ Thurston v. Bishop, 7 Haw. 421, 428-429 (1888).

103/ Hobbs, p. 41, note 17.

104/ Ibid.

105/ Lorrin A. Thurston, The Fundamental Law of Hawaii, 155, 156-168 (1904). Nor is it found in the Constitutions of 1864, 1887 or 1894 (Thurston, 169-194, 201-242). See also Hanifin, pp. 26-27.

106/ 16 C.J.S., Constitutional Law, §42 (1956).

107/ Ex parte Palm, 238 N.W. 732, 733 (S.Ct. Mich. 1931), cert. denied, 285 U.S. 547 (1932). This case rejected the argument that a provision in the first State Constitution of 1835 that was not found in any of the subsequent State Constitutions was still in force. See also In re Advisory Opinion to the Governor, 112 So. 2d. 843, 847 (S.Ct. Fla. 1959) which held that the omission of language from the State Constitution that had appeared in the State's previous constitutions should be presumed to be an intentional omission.

108/ Rex v. Booth, 2 Haw. 616, 624-625 (1863).

109/ Ahlo v. Smith, 8 Haw. 420, 423 (1892). "...loss of...[a right] through promulgation of a new Constitution is by 'due process of law' of the most pronounced character" (8 Haw. at 424). It should be noted that Article 91 of the 1894 Constitution expressly abrogated "all other Constitutions" of Hawaii (Thurston, p. 235). [Emphasis added].

110/ Hobbs, p. 41, note 17, and p. 40.

111/ Rose v. Yoshimura, 11 Haw. 30, 32 (1897); Kenoa v. Meek, 6 Haw. 63, 67 (1872); and Kanaina v. Long, 3 Haw. 332, 334-335 (1872). In Territory v. Gay, 26 Haw. 382, 402 (1922), the Great Mahele was held to have itself created "no estate in lands." While this language may refer principally to individual Hawaiians, it strongly implies that the Great Mahele did not operate so as to vest title in native Hawaiians as a group. Moreover, the opinion in State v. Zimring, 58 Haw. 106 (1977) implies that the sole source of title, if any, was the 1840 Constitution and not the Great Mahele (58 Haw. at 111-112).

112/ Kenoa v. Meek, 6 Haw. 63, 66-67 (1872); and Kanaina v. Long, 3 Haw. 332, 334-335 (1872). See also In re Austin, 33 Haw. 832, 838-839 (1936); and Territory v. Gay, 26 Haw. 382, 402-403 (1922). In Kenoa v. Meek, reference is made to the right of the particular claimant "in common with all other Konohikis" as having been barred (6 Haw. at 66). Commenters did not cite any of the decisions of the Hawaiian Supreme Court (see, e.g., OHA's Comments, "Footnotes").

This common right was subject to statutes of limitations. Claims of native tenants not presented and proven by May 1, 1854, were "forever barred" (Act of May 26, 1853 [1853] Hawaii Laws 26 (2 Revised Laws (1925) at 2145); cited by Levy, p. 856. Claims of konohiki that were not presented by January 1, 1895, were barred (Act of December 16, 1892, Session Laws, Ch. 68 (2 Revised Laws (1925) at 2151-2152)).

113/ Kahoomana v. Moehonua, 3 Haw. 635, 639 (1875); and Kenoa v. Meek, 6 Haw. 63, 67 (1872). This was true also before the Great Mahele (see Thurston v. Bishop, 7 Haw. 421, 438 (1888)).

This does not mean that title was vested in the native Hawaiians because the Hawaiian Government and native Hawaiians were not one and the same entity (see discussion above, p. 341).

114/ In the Matter of the Estate of His Majesty Kamehameha IV, 2 Haw. 715 (1864).

115/ 2 Haw. 715 (1864).

116/ Liliuokalani v. United States, 45 Ct.Cl. 418, 427-428 (1910).

117/ 45 Ct.Cl. at 427-428.

118/ See Hanifin, pp. 12-13. Article 95 of the 1894 Constitution expressly provided that the former Crown lands were Government lands (see Thurston, p. 237).

119/ OHA's Comments, Alternate Chapter III, p. 12.

120/ OHA asserts under its comments on aboriginal title that after the Mahele the Hawaiian Kingdom held title to the Government and Crown lands "for the benefit of the chiefs and people" (OHA's Comments, p. 23). OHA also alleges that the Crown and Government lands were held in trust (OHA's Comments, pp. 4-5). This theory suffers from serious defects. A trust could have first arisen only under the provisions of the 1840 Constitution (upon which OHA relies) since, as a general rule, a fiduciary relationship arises only under the provisions of a treaty, statute or agreement (e.g., United States v. Mitchell, 445 U.S. 535, 542-546 (1980)). Even assuming that the 1840 Constitution did establish a trust, the repeal of the 1840 Constitution by the 1852 Constitution terminated the trust. Moreover, Article 91 of the 1894 Constitution (Lorrin A. Thurston, The Fundamental Law of Hawaii, 235 (1904) specifically abrogated "all other [i.e., former] Constitutions" of Hawaii.

OHA states that the Great Mahele "continued" this trust concept because the lands conveyed to the Hawaiian Government were to be set "apart 'forever to the chiefs and people of my Kingdom'" (OHA's Comments, pp. 4-5). However, this language did not apply to the Crown lands (see Levy, p. 855). Accordingly, the Great Mahele clearly established no trust with respect to the Crown lands (e.g., United States v. Mitchell, supra). OHA contends that since the Crown lands eventually became Government lands, the provisions of the Great Mahele with respect to Government lands (i.e., that they be set 'apart forever to the chiefs and people of my Kingdom') automatically applied to the former Crown lands (OHA's Comments, p. 5). However, Article 95 of the 1894 Constitution (pursuant to which the former Crown lands became Government lands) specifically declared that the Crown lands were to be "...free and clear from any trust of or concerning the same..." [Emphasis supplied] (Thurston, p. 237). Although this language was primarily intended to terminate any trust in favor of Liliuokalani with respect to these lands (45 Ct.Cl. at 428-429), it is sufficiently broad so as to have barred the automatic creation of any new trust (in favor of the native Hawaiians) with respect to the Crown lands. Moreover, if OHA's interpretation of the provisions of the Great Mahele with regard to the Government lands is correct (i.e., that they automatically imposed a trust on the former Crown lands), then the provisions of Article 95 and the Act of June 7, 1848 (which adopted the provisions of the Great Mahele) could be viewed as being inconsistent. Since the 1894 Constitution was the fundamental law of Hawaii in 1894, its provisions took precedence over inconsistent provisions of preexisting statutes (see Article 91 of the 1894 Constitution (Thurston, p. 235); Ahlo v. Smith 8 Haaw. 420, 423 (1892)).

The provisions of the Great Mahele with respect to the Government lands became effective when adopted by the Act of June 7, 1848 (Hanifin, p. 28). Even assuming, arguendo, that the language of the 1848 Act was intended to create a trust with respect to the Government lands, the language of subsequent statutes (which concerned Government lands) is not consistent with a trust theory. For example, the Act of July 11, 1851 [1851] Hawaii Laws 52 (2 Revised Laws (1925) at 2196-2197) and the Act of July 6, 1853 [1853] Hawaii Laws 55 (2 Revised Laws (1925) at 2197) concerning the sale of Government lands did not provide that proceeds from the sale of Government lands were to be paid over to the native Hawaiians or deposited to their credit in a separate account in the Hawaiian Treasury (Compare cf. Ash Sheep Company v. United States, 252 U.S. 159, 165-166 (1920); United States v. Brindle, 110 U.S. 688, 693 (1884); and Colorado River Indian Tribes, et al. v. United States, 39 Ind.Cl.Comm. 42, 48-49 (1976) involving cessions of tribal land to the United States in trust which provided that the land be sold for the benefit of the tribe(s) making the cession and that the sales proceeds be paid over to the tribe(s) in question and, in one instance, that there be a semi-annual accounting of the sales proceeds.) Nor did subsequent statutes contain any provisions requiring proceeds from sales of Government land to be paid over to native Hawaiians (or set aside for them in the Treasury) or requiring periodic accountings of these receipts. In sum, the language of these subsequent statutes was, in effect, not consistent with the language of the Act of June 7, 1848, to the extent that the language of the 1848 Act may have been intended to create a trust as to the Government lands (Cf. Oni v. Meek, 2 Haw. 87 94-95 (1858) holding that a statute effected an implicit repeal of a prior inconsistent statute). Accordingly, these subsequent statutes could be viewed as effecting an implicit repeal of the 1848 Act to the extent that said Act may have imposed a trust on the Government lands.

Furthermore, the failure of a series of statutes to provide that proceeds from sales of Government lands be paid over to native Hawaiians or that periodic accountings of the sales receipts be rendered tends to negate the existence of any trust duties (compare cf. Aleut Community of St. Paul Island v. United States, 202 Ct. Cl. 182, 196-198 (1973)). Failure of the Hawaiian legislature to so provide is significant in light of the fact that the Hawaiian law of trusts clearly recognized the duty of a trustee not to comingle trust funds with monies belonging to the trustee (In re Neville's Estate, 4 Haw. 289, 290-291 (1880)) and the duty of a trustee to account for receipts and profits from trust property (Jarrett v. Manini, 2 Haw. 667, 677 (1863)). In addition, the Land Law of 1895 provided that proceeds from the sale of public lands were to be set apart as a "special fund for the payment of the Bonded Indebtedness of the Government or for the purchase of other lands as provided by § 194" (Civil Laws of the Hawaiian Islands, Ch. 7, § 202 (1897)), rather than set apart for the use and benefit of the native Hawaiians or set apart to be paid over to the native Hawaiians.

If the Government and Crown lands had been held in trust, then the native Hawaiians would have held some title to these lands--namely a "beneficial" title (e.g., Colorado River Indian Tribes, et al. v. United States, 39 Ind.Cl.Comm. 42, 49

(1976)). Yet neither the landmark decision in *Thurston* v. *Bishop*, 7 Haw. 421 (1888) (interpreting the 1840 Constitution) nor the other decisions discussed previously (interpreting the Great Mahele) hold that the native Hawaiians held a "beneficial" title to the Government and Crown lands. This is especially significant in light of the fact that the Hawaiian law of trusts expressly recognized the concept of "beneficial" title to land (*Kanoelehua* v. *Cartwright*, 7 Haw. 327, 329-330 (1888); *cf*. *Montgomery* v. *Montgomery*, 2 Haw. 563, 569 (1862)). Presumably, if the Hawaiian Supreme Court had believed that the native Hawaiians had a beneficial title, it would have so held.

Finally, native Hawaiians do not point to any suits prior to annexation alleging a violation of some fiduciary duty of the Government with respect to the Government and/or Crown lands. Yet there is no doubt that up to 1892 such a suit could have been filed in the Hawaiian Supreme Court (which had original equity jurisdiction until 1892) and, thereafter, in the First Circuit Court (*In re Bishop's Estate*, 11 Haw. 33 (1897)).

121/ OHA's Comments, p. 26. As noted, this argument assumes that the native Hawaiians and the Hawaiian Government are one and the same entity.

122/ MacKenzie, pp. 83-85.

123/ *Sac and Fox Tribe of Indians of Oklahoma* v. *United States*, 161 Ct. Cl. 189, 192, 197 (1963), *cert. denied*, 375 U.S. 921 (1963).

124/ *Tee-Hit-Ton Indians* v. *United States*, 348 U.S. 272, 278-279 (1955). This analogy is apt since the Hawaiian Government and native Hawaiians are alleged to be one and the same entity. This has nothing to do with the doctrine of "permissive use."

125/ 348 U.S. at 278-279. In such a situation there is an absence of a "definite intention by congressional action or authority to accord legal rights."

126/ *Sac and Fox Tribe of Indians of Oklahoma* v. *United States*, 161 Ct.Cl. 189, 192-193 (1963), *cert. denied*, 375 U.S. 921 (1963); and *Northwestern Band of Shoshone Indians* v. *United States*, 95 Ct.Cl. 642, 657-661, 681-684 (1942).

127/ *Coos Bay, Lower Umqua, and Siuslaw Indian Tribes* v. *United States*, 87 Ct. Cl. 143, 153 (1938), *cert*. *denied*, 306 U.S. 653 (1939).

128/ This paragraph treats the native Hawaiians as an entity separate from the Hawaiian Government. See *United States* v. *Mowat*, 582 F.2d 1194, 1206 (9th Cir. 1978), *cert*. *denied* 439 U.S. 967 (1978) which implies that the native Hawaiians had no recognized title to the Crown and Government lands.

129/ After annexation there existed only one entity whose title to the Government and Crown lands could, in theory, have been recognized--namely, the native Hawaiians as a group.

130/ See Joint Resolution No. 55 of July 7, 1898, 30 Stat. 750, which provides, in pertinent part:

> The existing laws of the United States relative to public lands shall not apply to such lands [the ceded lands] in the Hawaiian Islands; but the Congress shall enact special laws for their management and disposition: *Provided*, That all revenue from or proceeds of the same...[with certain exceptions] shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.

Treaties of cession do not generally establish recognized title to ceded lands (*Sioux Tribe, et al.* v. *United States*, 205 Ct.Cl. 148, 171 (1974)).

131/ The legislative history is full of references to the native Hawaiians--"*native population*" (Sen. Doc. No. 214, 55th Cong., 2nd Sess. p. 8 (1898)); "*native Hawaiians*" (H.R. Rep. No. 1355, 55th Cong., 2nd Sess., pp. 43, 49, 56 (1898)); "*native race*," "*aborigines*," "*natives*" (31 Cong. Rec., pp. 5982, 6010, 6142, 6144, 6260, 6526, 6663, 6702 (1898)). [Emphasis supplied.]

132/ See H.R. Rep. No. 1355, 55th Cong., 2nd Sess. p. 49 (1898) (two paragraph discussion and definition of "native Hawaiians"); 31 Cong. Rec., p. 6189 (reference to "the Hawaiians proper," i.e., "full-blooded" and "part" Hawaiians, as one of three "important races"); and 31 Cong. Rec., p. 6573 (distinction drawn between "inhabitants of the Hawaiian Islands" and the "native Hawaiians").

133/ 31 Cong. Rec., pp. 6189, 6260-6261, 6526 (1898).

134/ Act of April 30, 1900, 31 Stat. 141 (1900).

135/ Section 73, 31 Stat. 141, 154.

136/ Act of May 17, 1884, 23 Stat. 24, 26.

137/ *Tee-Hit-Ton Indians* v. *United States*, 348 U.S. 272, 278 (1955).

138/ *Ibid.*

139/ Nor does Section 91 of the Organic Act of 1900 evidence any intention by Congress to grant native Hawaiians the right to use and occupy Crown and Government lands permanently.

140/ OHA's Comments, pp. 26-27. Similarly, Senator Inouye refers to the "historical treatment of land titles conferred by foreign governments to lands subsequently annexed by or ceded to the United States" (Senator Inouye's Comments, p. 39).

141/ E.g., *Interstate Land Company* v. *Maxwell Land Grant Company*, 139 U.S. 569, 588 (1891).

142/ See 45 Am Jur 2nd, *International Law*, §33 (1969). See also *McMicken* v. *United States*, 97 U.S. 204, 209 (1877); *Hornsby* v. *United States*, 77 U.S. (10 Wall.) 224, 234 (1869); and *Fremont* v. *United States*, 58 U.S. (17 How.) 542, 560 (1854).

143/ *United States* v. *Fullard-Leo, et. al.*, 331 U.S. 256, 266 (1947); and *Hornsby* v. *United States*, 77 U.S. (10 Wall.) 224, 242 (1969).

144/ *Thurston* v. *Bishop*, 7 Haw. 421, 438 (1888); *Kahoomana* v. *Moehonua*, 3 Haw. 635, 639 (1875); and *Kenoa* v. *Meek*, 5 Haw. 63, 67 (1872).

145/ *Liliuokalani* v. *United States*, 45 Ct.Cl. 418, 426-428 (1910).

146/ *Thurston* v. *Bishop*, 7 Haw. 421, 438 (1888).

147/ *State* v. *Zimring*, 58 Haw. 106, 113 (1977). See also Senator Inouye's Comments (p. 41, note 20) which concur with this statement.

148/ *Barker* v. *Harvey*, 181 U.S. 481, 498-499 (1901) (property rights under Mexican law); *Indians of California* v. *United States*, 98 Ct. Cl. 583, 591-592 (1942), *cert. denied*, 319 U.S. 764 (1943) (property rights under Mexican law); and *Hayt* v. *United States*, 38 Ct. Cl. 455, 461-464 (1903) (property rights under Mexican law). *Cf. Carino* v. *Insular Government of the Philippine Islands*, 212 U.S. 449 (1909) (land claimed as property of an individual native of the Philippines found to have been segregated from public lands of the prior sovereign, Spain, and held protected under the Philippine Organic Act). See also, State of New Mexico v. Aamodt, 537 F.2d 1102, 1108-1109 (10th Cir. 1976), cert. denied, 429 U.S. 1121 (1977) (Pueblo grants under Spanish and Mexican law).

Under the Alaska Native Claims Settlement Act of 1971 the resolution of the existence of the Alaska Natives' claims did not rest on the existence of a valid claim under Russian law. Aleut Community of St. Paul Island v. United States, 27 Ind.Cl.Comm. 177, 181 (1972), aff'd, 202 Ct.Cl. 182 (1973).

149/ Barker v. Harvey, 181 U.S. 481, 498 (1901); Interstate Land Company v. Maxwell Land Grant Company, 139 U.S. 569, 588 (1891); and Fremont v. United States, 58 U.S. (17 How.) 542, 560-562 (1854). Cf. United States v. Chaves, 159 U.S. 452, 464 (1895); Hornsby v. United States, 77 U.S. (10 Wall.) 224, 238 (1869); and United States v. Pico, 72 U.S. (5 Wall.) 536, 540 (1866).

150/ See discussion above, p. 342.

151/ See discussion above, p. 342.

152/ United States v. Sioux Nation of Indians, 448 U.S. 371, 415, note 29 (1980).

153/ Cf. Caddo Tribe of Oklahoma v. United States, supra, 35 Ind. Cl.Comm. at 339.

154/ See, e.g., United States v. Creek Nation, 295 U.S. 103, 109-110 (1935); United States v. Klamath and Modoc Tribes of Indians, 304 U.S. 119, 124-125 (1938); and cf. Coast Indian Community v. United States, 213 Ct.Cl. 129, 14[illegible]-[illegible]8 (1977)).

155/ 31 Stat. at 159. [Emphasis added.]

156/ United States v. Fullard-Leo, et al., 66 F. Supp. 782, 787 (D.C. Hawaii, 1944), aff'd 156 F.2d 756 (9th Cir. 1946), aff'd, 331 U.S. 256 (1947). [Emphasis added.]

The cited language shows that under Section 91 of the Organic Act the Territory of Hawaii was not merely an agent of the United States; therefore, such "agency" does not form the basis for a Fifth Amendment taking of the Government lands. Also, Inter-Island Steam Navigation Co. v. Territory of Hawaii, 305 U.S. 306 (1938), on which commenter relies makes reference only to Section 33 of the Organic Act, but no reference to Sections 73 or 91 of the Act.

157/ See 25 U.S.C. § 70(k). Similarly, the native Hawaiians cannot obtain compensation under Section 2 of the Indian Claims Commission Act because such claims must have been filed by 1951.

158/ MacKenzie, pp. 57, 61-62.

159/ United States v. Wheeler, 435 U.S. 313, 322-323 (1978). As to the applicability of principles of Indian law to native Hawaiians, see footnote 165, below.

160/ 435 U.S. at 326.

161/ 435 U.S. at 326. See also Oliphant v. Suquamish Indian Tribe, et al., 435 U.S. 191, 195 and 208-212 (1978).

162/ Montana v. United States, 450 U.S. 544, 564 (1981), rehearing denied, 452 U.S. 911 (1981).

163/ 450 U.S. at 564.

164/ Of course, the United States exercised no sovereignty over the Hawaiian Islands in 1893. Additionally, the native Hawaiians were represented in the Territorial Government. See preceding chapter above.

165/ United States v. Wheeler, 435 U.S. 313, 323 (1977). OHA submits that the concept of sovereignty as it relates to Indian tribes is not applicable to the claims of the native Hawaiians, because whereas Indian tribes were "domestic dependent" nations with only powers of a limited sovereignty (OHA's Comments, Alternate Chapter III, p. 15), the native Hawaiians were "citizens of an aboriginal nation with internal and external attributes of sovereignty" (OHA's Comments, p. 28). One commenter notes that until 1898 Hawaii was a separate, independent sovereign. Another commenter suggests that Hawaiians have a "claim to self-determination as a sovereign people." While it is true that Indian tribes had only internal attributes of sovereignty, the salient fact remains that under traditional principles of Indian law, Indian tribes have not been allowed to recover for the loss of those attributes of sovereignty that they do possess, even under Section 2, Clause (5) of the Indian Claims Commission Act (25 U.S.C. §70 (a)) which encompasses "moral" claims (Confederated Tribes of the Colville Reservation v. United States, 25 Ind.Cl.Comm. 99, 103 (1971)). Moreover, native Hawaiians are citizens of the United States and the State of Hawaii, their sovereigns.

166/ Such matters are regarded as a political question. See, e.g., Baker v. Carr, 369 U.S. 186, 212 (1962).

167/ See, e.g., Tee-Hit-Ton Indians v. United States, 348 U.S. 272, 285 (1955). The Fifth Amendment provides that the United States shall not take property without just compensation.

168/ Confederated Tribes of the Colville Reservation v. United States, 25 Ind.Cl.Comm. 99, 104 (1971).

169/ Fort Sill Apache Tribe of the State of Oklahoma v. United States, 201 Ct.Cl. 630, 640-642 (1973).

170/ See Section 12 of the Act, 25 U.S.C. § 70(k).

171/ United States v. Mowat, 582 F.2d 1194, 1206-1207 (9th Cir. 1978), cert. denied, 439 U.S. 967 (1978).

172/ Inupiat Community of the Arctic Slope v. United States, ____ Ct.Cl. ___, 680 F.2d 122, 129 (1982), cert. denied, 103 S.Ct. 299 (1982).

173/ Aleut Community of St. Paul Island v. United States, 202 Ct.Cl. 182, 195 (1973).

174/ OHA does not dispute this conclusion (OHA's Comments, Alternate Chapter III, p. 16) and concedes that "...no Constitutional or statutory provision requires the United States to recognize a claim for loss of sovereignty" (OHA's Comments, p. 29). However, OHA asserts that there may be a "moral duty on the part of the United States to provide reparations or restitution" (OHA's Comments, Alternate Chapter III, p. 16).

175/ MacKenzie, p. 57.

176/ E.g., United States v. Mitchell, 445 U.S. 535, 542-546 (1980), rehearing denied, 446 U.S. 992 (1980).

177/ MacKenzie, pp. 85-86.

178/ *Ibid.*, p. 87.

179/ *United States* v. *Mitchell*, 445 U.S. 535, 542-546 (1980), *rehearing denied*, 446 U.S. 992 (1980); *Gila River Pima-Maricopa Indian Community, et al.* v. *United States*, 190 Ct.Cl. 790, 797-800 (1970), *cert. denied*, 400 U.S. 819 (1970); *White* v. *Califano*, 437 F. Supp. 543, 554-555 (D.C.S.D. 1977), *aff'd* 581 F.2d 697 (8th Cir. 1978); *Confederated Tribes of the Colville Reservation* v. *United States*, 25 Ind.Cl.Comm. 99, 107 (1971); and *Creek Nation* v. *United States*, 20 Ind.Cl.Comm. 44, 60 (1968).

OHA cites *Duncan* v. *United States*, 667 F.2d 36 (1981) in support of its comment that the draft report erred in stating that fiduciary relationships can arise only under a treaty, statute, or agreement. However, *certiorari* has been granted in the *Duncan* case; the decision of the Supreme Court on review is anticipated in the Spring of 1983. OHA also cites *White* v. *Califano*, 437 F.Supp. 543 (D.C.S.D. 1977), *aff'd* 581 F.2d 697 (8th Cir. 1978). However, the district court's finding of a fiduciary relationship was based upon Congress' declaration of policy found in the Indian Health Care Act, 25 U.S.C. §1601, *et seq*. (437 F.Supp. at 554-555). The policy declaration referred to the nation's "fulfillment of its special responsibilities and legal obligations to the American Indian people."

180/ Importantly, courts regard the determination of who is the sovereign of a country as a political question left to the determination of the political departments of government. *Oetjen* v. *General Leather Co.*, 246 U.S. 297, 302 (1918); see also *Baker* v. *Carr*, 369 U.S. 186, 212 (1962). Regardless of whether the Hawaiian Government was in place during the 1890's because of the United States' influence, as long as the United States did not consider itself the sovereign of Hawaii it was not the sovereign. Therefore, the views of commenters that the Hawaiian Government of 1897-1898 was illegitimate does not change the foregoing analysis. See also *United States* v. *Mowat*, 582 F.2d 1194, 1206-1207 (9th Cir. 1978), *cert. denied*, 439 U.S. 967 (1978), which rejected the argument that the Joint Resolution of Annexation was illegal because its use was made possible by the Provisional Government that was allegedly a revolutionary and illegal government. Similarly, the "alleged illegality of the quitclaim ceremony of 1897" (see comments of Louis Agard, p. 25 and other commenters) was in fact the Hawaiian legislature's adoption of the law approving annexation and was perfectly lawful.

181/ *Cherokee Nation* v. *Georgia*, 30 U.S. (5 Pet.) 1, 16-18 (1832).

182/ One commenter states that the "primary source from which a trust duty arises" is the "role of the United States and its agents in overthrowing the Hawaiian Government and the subsequent acquisition of almost 1.75 million acres of native land;" a "wrongdoing" that the United States never acknowledged (OHA's Comments, p. 30). It is further contended that "once the wrong was acknowledged, a duty would arise" (OHA's Comments, p. 30). Other commenters gave similar views in more general terms.

This theory simply ignores the fact that since the Federal Government did not have sovereignty over the Hawaiian Islands prior to 1898, no fiduciary relationship could have existed with the native Hawaiians. Furthermore, acts of the Federal Government that might be deemed less than "fair and honorable" within the meaning of Section 2, Clause (5) of the Indian Claims Commission Act (the "fair and honorable dealings" clause) do not give rise to any fiduciary duty (*Gila River Pima-Maricopa Indian Community, et al.* v. *United States*, 190 Ct. Cl. 790, 800 (1970), *cert. denied*, 400 U.S. 819 (1970)).

183/ *Cf. Aleut Community of St. Paul Island* v. *United States*, 202 Ct.Cl. 182, 196-198 (1973). Here the Court of Claims found that a "special relationship" (under Clause (5) of Section 2 of the Indian Claims Commission Act) existed between plaintiffs and the United States by virtue of duties assumed in statutes that consistently referred to "natives" or "native inhabitants" of the Pribilof Islands.

184/ See *Navajo Tribe* v. *United States*, 224 Ct.Cl. 171, 183-185 (1980). See also, to the same effect, *American Indians Residing on the Maricopa Ak-Chin Reservation* v. *United States*, ___ Ct.Cl. ___, 667 F.2d 980, 990 (1981), *cert. denied*, 102 S.Ct. 2269 (1982).

185/ *Navajo Tribe* v. *United States*, 224 Ct.Cl. 171, 183-185 (1980).

186/ Act of July 9, 1921, 42 Stat. 108.

187/ Act of March 18, 1959, 73 Stat. 4.

188/ OHA's Comments, p. 30; Comments of Clarence Kamai.

189/ The correctness is in doubt in light of Section 5 of the Admission Act discussed in the text above.

190/ See, e.g., *United States* v. *Oneida Nation of New York*, 217 Ct.Cl. 45, 55-59 (1978).

191/ *Gila River Pima-Maricopa Indian Community, et al.* v. *United States*, 190 Ct.Cl. 790, 800 (1970), *cert. denied*, 400 U.S. 819 (1970).

192/ 22 Op. Att'y Gen. 574, 576 (1899).

193/ *United States* v. *Mitchell*, 445 U.S. 535, 542 (1980), *rehearing denied*, 446 U.S. 992 (1980). Section 99 of the Organic Act (31 Stat. at 161) provided that the Crown Lands were "free and clear" of any trust.

194/ Compare with the situation in *United States* v. *Oneida Nation of New York*, 217 Ct.Cl. 45 (1978). There the Court of Claims held that there was a "special relationship" (under Clause (5) of Section 2 of the Indian Claims Commission Act) between the Federal Government and the Oneida Nation. The court held that by virtue of a 1784 treaty in which the Federal Government had promised to protect the Oneidas in the possession of the lands they occupied as of 1784, the United States had assumed a fiduciary relationship with the Oneida Nation with respect to such lands.

195/ Some commenters suggest there is a close analogy between Alaska Native claims and Hawaiian native claims.

196/ Regarding the history of native claims in Alaska, see generally United States v. Atlantic Richfield Co., 435 F. Supp. 1009, 1014-1019 (D. Alaska, 1977), aff'd 612 F.2d 1132 (9th Cir. 1980), cert. denied, 449 U.S. 888 (1980).

197/ One commenter states that the United States acquired fee title to over fifty percent of the land in Hawaii upon annexation and that, by contrast, the Federal Government obtained fee title to much less than fifty percent of the land in Alaska when it purchased Alaska in 1867. In fact, by the Treaty of Cession in 1867, the United States acquired well over 90% of the land in Alaska, and continues to hold over 90% of Alaska land.

198/ Alaska Statehood Act, P.L. No. 85-508, 72 Stat. 339, as amended, 73 Stat. 141, 48 U.S.C. Chapter 2.

Review of Hawaiian Homes Commission Programs

The following pages contain information on the Hawaiian Homes Commission Programs. The main text of the chapter was prepared by the Inspector General of the U.S. Department of the Interior. ("Review of Hawaiian Homes Commission Programs," W-OS-OSS-12-82, September 1982.) The text is preceded by: first, a comment received by the Native Hawaiians Study Commission from the Federal/State Task Force on the Hawaiian Homes Commission Act; and, second, a transmittal memorandum from the Inspector General to the Secretary of the Interior. The text is followed by an appendix containing the comments of the Governor of Hawaii pertaining to the Inspector General's report. With the exception of the addition of the comment by the Federal/State Task Force (and placement of all tables at the end of the chapter), this chapter has not been changed from the way it appeared in the Draft Report of Findings of the Native Hawaiians Study Commission.

Federal/State Task Force Comment */

"This chapter is a report prepared by the Office of Inspector General, U.S. Department of the Interior. The Inspector General has independent audit and investigative authority and reports directly to the Secretary and the U.S. Congress. The Inspector General was asked to review selected aspects of the Hawaiian Homes Commission programs to be used as a basis for the Federal/State Task Force Study.

"The Federal/State Task Force was created on July 14, 1982 as a joint effort of the U.S. Department of Interior and the State of Hawaii. Its express purpose is 'to recommend to the Secretary of the U.S. Department of Interior and Governor of the State of Hawaii, ways to better effectuate the purposes of the Hawaiian Homes Commission Act (HHCA) and to accelerate the distribution of HHCA assets to beneficiaries.' The Task Force has conducted a comprehensive review of the HHCA and the programs of the Department of Hawaiian Home Lands (DHHL). Its investigations, studies, and recommendations are being forwarded to the Governor of Hawaii and the Secretary of the Interior.

"The Inspector General's report, along with the reply from the Governor of the State of Hawaii is included in its entirety; only the page numbers have been changed [and the tables placed at the end of the chapter]. It should also be noted that since the Inspector General's report was issued various problem areas have been addressed in a separate effort by the Task Force and the Department. The report of the Federal/State Task Force identifies the work accomplished, underway, and planned to meet the requirements of the Inspector General's report."

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*/ Amendments to the Draft Report of the Native Hawaiians Study Commission adopted by the Federal/State Task Force on the Hawaiian Homes Commission Act on December 2, 1982.

Transmittal Memorandum, Dated September 8, 1982

To: Secretary

From: Inspector General

Subject: Audit Report, "Review of Hawaiian Homes Commission Act Programs Operated by Department of Hawaiian Home Lands, State of Hawaii"

This report, in response to the request of February 1982, contains the results of our review of selected aspects of the Hawaiian Homes Commission programs operated by the Department of Hawaiian Home Lands (DHHL), State of Hawaii.

The report discusses problems concerning status of the Hawaiian Home lands, program accomplishment, financial management, applicant eligibility lists and leasing activities.

We are recommending actions to be taken by the DHHL to resolve the immediate problems or other matters discussed in the report where we believe that positive action is both necessary and feasible regardless of basic long-term program decisions. We have not generally addressed basic issues such as (1) solutions to the problems of money or other resources for carrying out Home lands program objectives, (2) whether any changes should be made in the program policies in order to achieve program objectives in an accelerated manner, or (3) the appropriate role, if any, to be played by the Federal establishment, specifically the Department of the Interior, in accomplishing the purposes of the Hawaiian Homes Commission Act, 1920, as amended.

The Governor of the State of Hawaii, in his August 4, 1982 letter commenting on the draft of this report, generally agreed with the problems addressed. However, the Governor commented that the basic and essential issue of whether the Department of the Interior has adequately executed its trust responsibilities was not addressed. The complete text of the Governor's comments are included as an appendix to this report.

We agree with the Governor's assessment and his proposal that the issues relative to the responsibilities of the Federal establishment, including the Department of the Interior, should be addressed by the recently created Federal-State Task Force on the Hawaiian Homes Commission Act. We further believe that the problems identified in the report are matters that should also be addressed by the Task Force.

Based on comments from the Secretary's Office, we understand that the Federal-State Task Force will be in existence for six months and will analyze and address each issue raised in our report.

We would be pleased to provide any additional information you or the Task Force may need. We understand that the Task Force will be using our report as input to their study and may incorporate our results in their overall Task Force report. Consequently, we are not including this special report in our normal follow-up system, but we would appreciate being apprised on the Task Force actions.

(signed) Richard Mulberry

Abbreviations and Acronyms

Act - Hawaiian Homes Commission Act, 1920, as amended, which was enacted to enable native Hawaiians (descendants of not less than one-half part blood of the races inhabiting the Hawaiian Islands previous to 1778) to recapture possession and control some of the public lands of the Territory of Hawaii as homesteads.

Commission - Hawaiian Homes Commission, composed of eight members appointed to 4-year terms by the Governor, formulates policy and exercises control over the functions of the Department of Hawaiian Home Lands. In addition to the Chairman, three commissioners are to be residents of the island of Oahu and one commissioner will be from each of the islands of Molokai, Maui, Hawaii, and Kauai. At least four of the Commissioners are required to be not less than one-fourth Hawaiian.

DHHL - Department of Hawaiian Home Lands, the State of Hawaii agency responsible for administration and operation of the Hawaiian Homes Commission Act programs.

DLNR - Department of Land and Natural Resources, the State of Hawaii agency responsible for administration of State public lands. Prior to 1966 this agency was responsible for the administration of Home lands which were not needed for homesteading purposes.

GEO's - Governor's Executive Orders.

Home lands - Hawaiian Home lands set aside by the Act for homesteading.

A. INTRODUCTION

The Office of Inspector General has reviewed selected aspects of the Hawaiian Homes Commission programs operated by the Department of Hawaiian Home Lands (DHHL), State of Hawaii. The review was requested by the Under Secretary, Department of the Interior, in February 1982 to determine if the Department of the Interior has adequately executed its trust responsibilities for programs and activities of the Hawaiian Homes Commission as provided by the Hawaiian Homes Commission Act, 1920 (Act) and the Hawaii Admission Act of 1959.

The actual role of the Department of the Interior in the affairs of the Hawaiian Homes Commission after Hawaii achieved statehood in 1959 has been very limited. The Assistant Secretary of the Interior, in a 1972 memorandum to the Director, DHHL, considered the Department of Interior's role as a "ministerial" function. Specifically, this "ministerial" role related to approval of the exchange of title to available lands for publicly or privately-owned lands of an equal value, as allowed under the Act. The Assistant Secretary commenting on the Secretary's approval role under Section 204(4) of the Act stated in the memorandum that...

> Such approval by the Secretary is considered by the Department to be a ministerial, nondiscretionary act which he cannot perform until after the Governor has acted. The lack of suitable personnel representing the Department of the Interior in Hawaii to investigate the proposed land exchanges reflects the ministerial nature of the Secretary's function. Thus, Section 204(4), insofar as it requires the Secretary's approval in cases involving land exchanges, represents something of an anachronism which has carried over from the days of territorial status when Hawaii was under the jurisdiction of the Department of the Interior.

Thus, the Secretary's role since statehood appears to have been of a ministerial nature until March 17, 1980, when attorneys representing native Hawaiian individuals petitioned the Secretary of the Interior and the United States Department of Justice to take action to enforce the provisions of the Act.

Our review conducted in Hawaii from March 9, 1982 through May 13, 1982, was primarily directed to determining how well the intent and provisions of the Act have been carried out, whether all of the land provided by the Act has been properly accounted for, whether the procedures followed in leasing lands were being conducted in the best interests of the program, and whether financial accountability over the financial affairs of the DHHL is adequate. Due to time constraints, complexity of the programs, lack of financial statements, and the number of years the Act has been in existence, we did not review certain aspects of DHHL activities in the depth we originally anticipated. For example, we limited our financial audit effort because complete financial statements had not been prepared for all funds since 1972.

Also, we limited our review of commercial leasing of land to recent activities.

Further, as pointed out by the Governor of the State of Hawaii in his reply to a draft of this report, we did not address issues related to the specific responsibilities of the Department of Interior, its execution thereof or the policy matters that are interrelated to such responsibilities.

B. BACKGROUND

The Act was enacted to enable native Hawaiians (descendants of not less than one-half part blood of races inhabiting the Hawaiian Islands previous to 1778) to recapture possession and control of the public lands of the Territory of Hawaii as homesteads. The Act was designed to fulfill four principal objectives:

1) the Hawaiian must be placed on the land in order to insure his rehabilitation;

2) the alienation of such land, now and in the future, be made impossible;

3) accessible water in adequate amounts must be provided for all tracts; and

4) the Hawaiian must be financially aided until his farming operations are well under way.

The Act set aside approximately 200,000 acres of public lands as available lands for administration by the Hawaiian Homes Commission (Commission) for homestead purposes. The available lands were described in the Act as excluding: "(a) all lands within any forest reservation, (b) all cultivated sugar-cane lands, and (c) all public lands held under a certificate of occupation, homestead lease, right of purchase lease, or special homestead agreement." The descriptions of acreage were vague, such as, "(1) On the island of Hawaii: Kamao-Puueo (eleven thousand acres, more or less), in the district of Kau; Puukapu (twelve thousand acres, more or less), Kawaihae I (ten thousand acres, more or less),...in the district of South Kohala;..."

The Act originally was intended for rural homesteading, where native Hawaiians become subsistent or commercial farmers or ranchers. However, in 1923 the United States Congress amended the Act to permit residential lots. Ever since, the demand of native Hawaiians for residential lots has far exceeded the demand for agricultural or pastural lots.

In 1959, the Hawaii Admission Act provided that ownership of the Hawaiian Home lands (Home lands) be transferred from the United States to the State of Hawaii. The Admission Act also provided that the Home lands, as well as proceeds and income therefrom were to be held by the State in trust for native Hawaiians and administered in accordance with the Act, and that use of the Home lands for any other purpose would constitute a breach of trust for which suit may be brought by the United States. The Act, as amended, was adopted as a provision of the constitution of the State of Hawaii, and the DHHL was established to administer the Home lands under the Commission.

According to the DHHL annual report, approximately 190,000 acres were being managed by DHHL as of June 30, 1981, and were used as shown in Table 65. (All tables are at the end of the chapter.)

DHHL activities involved in the management of the Home lands include: establishment of farming and ranching programs; road maintenance; operation of a domestic water system on Molokai; commercial leasing; development, design, and construction of residential subdivisions; and financing loans for homes, ranches, and farms. DHHL also recently began to provide economic development services to native Hawaiians. DHHL employs a staff of approximately 90 people and contracts for certain services such as the planning, design, and construction of residential subdivisions improvements, and agricultural technical expertise.

Funding for DHHL programs is provided by State of Hawaii general obligation bonds and DHHL's revenue receipts. The State of Hawaii provided approximately $6.2 million during fiscal year 1981 and DHHL's receipts totaled about $6.4 million. The five primary sources of DHHL receipts are interest income, lease rent, principal repayments, receipts from sugar cane land leases and water licenses now specifically earmarked for the Native Hawaiian Rehabilitation Fund, and miscellaneous receipts (primary rock and sand sales and pasture and water fees). Receipts for fiscal year 1981 were as follows:

Source	Amount
Interest-loan funds	$1,884,181
Interest-investments in time certificates of deposit	740,260
Lease rentals	1,418,803
Native Hawaiian Rehabilitation Fund	1,015,916
Miscellaneous	231,673
Loan principal repayments	1,139,090
Total receipts	$6,429,923

Seven revolving funds and eight special funds have been established to account for revenues and expenditures under the Act. The funds and sources of revenues for each are shown in Table 66. In addition, DHHL is responsible for approximately 50 bond fund accounts.

DHHL's administrative and operational activities are funded by commercial leasing revenues subject to budget approval by the State legislature. As previously shown, DHHL has 92,239 acres of land under general leases, for which income of about $1.4 million was received in 1981. Thus, about 50 percent of the available land is currently used to obtain funds for DHHL administrative needs. The DHHL has a stated goal to substantially reduce the acreage of lands under general lease and make these lands available for direct use by native Hawaiians. In order to maintain sufficient income to administer the program and yet reduce acreage under general lease, the DHHL plans to focus on high revenue commercial and industrial use leases.

C. HIGHLIGHTS

1. Although land is the essential element of the Home lands program, effective accountability for the land has not been established.

   a. The DHHL does not have a complete or accurate inventory of the 203,500 acres of "available lands" as designated under the Act, nor of the 190,000 acres that DHHL now claims responsibility for. A major obstacle in establishing accountability for the lands is the absence of a definitive description of "available lands" and a complete survey of the lands. DHHL does not have the necessary resources to research and develop a comprehensive land inventory system.

b. The Attorney General (State of Hawaii) has ruled that certain DHHL lands were illegally set aside by Governor's Executive Orders. A State Court confirmed this. Progress on resolving this situation, either by exchange of lands or by receiving compensation, is moving very slowly. Except in two cases, there does not appear to be a concerted effort to resolve this problem. Although the listing of lands set aside under Governor's Executive orders was not complete, DHHL had identified approximately 13,600 acres set aside under such orders. The lands are being used by Federal, State, and county agencies for purposes such as public airports, defense installations, schools, parks, or forest and game reserves. DHHL has been working on two cases of land withdrawals involving an airport in Hilo and a flood control project. The airport case has resulted in a general lease providing for a one-time payment of $401,185 for past use and an annual rental of $481,422. The other case will apparently be resolved with a land exchange.

c. There have been seven land exchanges under provisions of the Act, all of which were approved by the (then) Secretary of the Interior. Two of the exchanges, involving 194 acres, were on an acre-for-acre basis, but we were unable to find any appraisals to support that the exchanges were on the basis of equal value as required by the Act. A third exchange of 268 acres of Home lands for about 5,078 acres of State lands was based on tax assessment values of differing periods. The Home lands were valued primarily on 1962 assessments while State lands were valued on 1966 assessments. In addition, available records did not show whether retention of mineral rights by the State was considered in establishing "equal" values.

2. The objective of enabling native Hawaiians to recapture possession and control of the land has not progressed rapidly during the 60 years of the Act's existence. Only 20 percent of the lands made available by the Act are now in the possession of or used by native Hawaiians. There are over 7,000 native Hawaiian applicants on the homestead eligibility lists and some of the applicants have been on the lists for as long as 30 years. The State of Hawaii has provided over $42 million in funds during the past 5 years in addition to the funds generated by the Commission mainly from leases and interests on lease proceeds. Prior to 1973, the amount of funds provided by the State or Territory from outside of the Commission was insignificant.

Despite this stepped-up effort, we estimate it will take over 50 years and over $600 million to satisfy the applicants on the present eligibility lists.

a. The residential homestead program accomplishments were restricted by availability of funds. The residential program is under a subdivision concept with DHHL providing site improvements, such as roads, utilities, and other facilities at no cost to the homesteader. In addition, DHHL provides financing at favorable interest rates for home construction and repairs because homesteaders are not normally able to obtain conventional financing.

b. The farm and ranch homesteading program to encourage native Hawaiians to take up farming as a means to achieve social and economic well-being has not been a success. While there are some successful ranchers and farmers, over 60 percent of the awarded farm tracts are not in full cultivation, including 42 percent that are not under any cultivation at all. It is estimated that at least 34 percent of the homestead ranch lots are subleased by the homesteaders to others for grazing. According to some native Hawaiians the sublessees include individuals who are not native Hawaiians. By 1951, 5,800 acres of the 7,619 farm acres awarded to homesteaders were subleased to pineapple companies under contracts negotiated prior to Statehood. The homesteaders, thus, were not farmers but landlords. The pineapple companies involved discontinued operation on these lands in 1975-1978 and much of the land is unused.

3. Complete financial statements for all of DHHL's funds are not being prepared. As a result, the financial data reported to the Commission and included in the annual report does not provide information necessary to assess management's performance of its trustee responsibility. A complete financial audit of all funds which include over $32 million in loan and accounts receivable and $10 million in cash as of February 28, 1982, has not been performed for periods subsequent to 1972. Also, cash management has not been effective. DHHL maintained large cash reserves in noninterest bearing accounts during a 9-month period ending February 28, 1982. For example, we estimate that an average cash balance of $1,250,000 per month for the Hawaiian Development fund was not in interest bearing investments and, based on the average rate of return, we estimate that over $100,000 in interest was not earned that would have provided additional funds for the purposes of the Act. We noted cash balances at the end of each month for three other funds averaged about $2 million for the 9-month period, and conclude that substantial amounts of additional interest could have been earned on these and other funds that were excess to needs.

4. The eligibility lists, containing over 7,000 applicants' names, need to be verified and additional procedures to remove applicants from the lists need to be considered. DHHL does not have current addresses for a large number of applicants and attempts to contact individuals have not been successful. Many applicants, when offered a homestead lease, defer their right until sometime later for various reasons. There is no limit on how many times an applicant may defer an award, yet the applicants retain their place (ranking) on the list. For example, DHHL recently (1981-1982) screened 1,000 applicants for awarding 230 lots on Oahu. Of the 1,000 applicants, 87 requested that their award be deferred, the notification letters for 371 applicants were returned undelivered, and 10 applicants were deceased. Names are removed from the list only at the request of the applicant. If a person dies, their ranking on the list is assigned to their designated qualified native Hawaiian heirs.

The DHHL has not notified applicants who filed since June 1981 whether their applications have been approved. And, DHHL has not established an accountability system to assure that all applications are accounted for or that some applications have not been lost.

5. Revocable permits have been continued when general leases would be more appropriate. The permits should be used only for temporary use of land but at least two revocable permits have continued for long periods of time.

We are recommending actions to be taken by the DHHL to resolve the immediate problems or other matters, discussed in the report and highlighted herein, where we believe that positive action is both necessary and feasible, regardless of basic long-term program decisions. We have not generally addressed basic issues such as (1) solutions to the problems of money or other resources for carrying out Home lands program objectives, (2) whether any changes should be made in the program policies in order to achieve program objectives in an accelerated manner, or (3) the appropriate role, if any, to be played by the Federal establishment, specifically the Department of the Interior, in accomplishing the purposes of the Act. However, we have suggested that consideration be given to revising the residential program policies in order to reduce the financial requirements of this program.

The Governor, State of Hawaii, provided comments on a draft of this report to the Under Secretary of the Department of the Interior. These comments are included as an appendix to this report. The Governor stated that generally the draft is accurate in its description of the problems facing the Commission and DHHL. However, the Governor stated that the basic and essential issue of whether the Department of the Interior has adequately executed its trust responsibilities was not addressed. And, therefore, the Governor proposed that the "recently created Federal-State Task Force on the HHCA" cover the roles and responsibilities of each involved entity in its final and comprehensive study with detailed recommendations to resolve the problems in a cooperative manner.

We agree that issues relative to the responsibilities of the Department of the Interior were not addressed in the report and that such issues should be included in the scope of the Task Force study. We further believe that the problems identified in this report are matters that should also be addressed by the Task Force.

The Secretary's Office commented that the Federal/State Task Force will be in existence for six months and they will perform an indepth analysis of each of the issues and recommendations raised by the Inspector General.

D. FINDINGS AND RECOMMENDATIONS

1. Land Status

Although land is the essential element of the Home lands program, effective accountability for the land has not been established. The problems leading to the present situation are many, beginning with an absence of a definitive description of "available lands" designated by the Act; continuing with apparently illegal land withdrawals or diversions; and complicated by inadequate maintenance of land inventory records. As a result, DHHL does not have a complete or accurate inventory of the 203,500 acres designated under the Act, nor of the 190,000 acres for which DHHL now claims responsibility. Further, the State of Hawaii has never developed and maintained a current and comprehensive inventory of State and public lands, including Home lands, for which the State of Hawaii is the trustee. These problems, in part, have given rise to allegations of "missing" lands by native Hawaiians and organizations, and by other interested parties.

We conclude that positive and aggressive action is required to establish complete and accurate records of Home lands and to resolve issues related to land withdrawals and exchanges.

Land Inventory

DHHL land inventory records consist of a listing of parcels of land corresponding to the State of Hawaii, Department of Taxation, property tax maps to which hand-written adjustments have been made by DHHL personnel. This listing, prepared in November 1979 by a commercial data processing firm, shows parcel identification, location, acreage, use, lease data, and annual rental amounts. In addition to this land listing, known as the "blue book," DHHL also has copies of the tax maps for the areas where Home lands are located.

The DHHL blue book does not provide acre totals or summarizations. DHHL personnel manually prepare data to summarize acreage, use of land, homestead acreage, and other data for the annual report. We found errors in the blue book such as the inclusion of easements as additional acreage, omitted parcels of Home lands, and differences between the blue book and the tax maps.

The use of tax maps as a basis for DHHL land records is also questionable because the Legislative Auditor of the State of Hawaii, in a January 1979 report, criticized the Department of Land and Natural Resources (DLNR) for relying on tax maps for determining the status of State land ownership. The Legislative Auditor stated that the property tax records do not constitute an inventory of public lands nor all lands owned by the State. The Legislative Auditor reported that the records are intended for real property tax purposes and are concerned with who is to be billed for the taxes and not necessarily the true, ultimate, or reversionary owners of the land. Instead, the records may show the name of a lessee or other persons having some interest in the land.

An inventory of Home lands titled "A Land Inventory and Land Use Study for the Department of Hawaiian Home Lands" was performed in 1972. The study (hereafter referred to as the Akinaka Study) was performed by Arthur Y. Akinaka, Ltd., Consulting Engineers, and James M. Dunn, former State Surveyor. The Akinaka Study included an overview of Home lands as well as identifying the obstacles to establishing accountability over the lands designated by the Act. There are some errors in the identification of acreage in the Akinaka Study, but, in our opinion, it represents the best available starting point in identifying the lands for which the Commission is responsible as a trustee. We note, however, that DHHL has not attempted to explain the differences between the land acreage as reported in the Akinaka Study and the acreage included in the blue book.

The original Act set aside approximately 203,500 acres and the United States Congress added 564 acres and withdrew 272 acres during the years 1934 through 1952. In addition, there have been seven exchanges of lands approved by the Secretary of the Interior. The exchanges resulted in a net increase of 3,903 acres and an adjusted total of 207,695 acres as shown in Table 67.

A comparison of the Home lands acreage, as adjusted above, and as summarized in the Akinaka Study and in DHHL's fiscal year 1981 annual report is shown in Table 68. This table shows that there are differences in totals and in acreage by island. While there is only a 154-acre difference between total acreages of the Akinaka Study and the 1981 Annual Report, there are more significant differences in the island acreages, i.e., Hawaii 396 acres, Kauai 722 acres, Molokai 585 acres, and Oahu 176 acres. Although there have been no approved exchanges or disposals of Home lands since 1967, there are inconsistencies in the acreages reported in the DHHL annual reports as shown below.

Annual Report	HHL Acreage
1981	189,724
1980	190,000
1977	190,414
1976	189,875
1971	190,920

An understanding of the events which led to the passage of the Act is necessary to understand some of the problems associated with the land inventory. The proposals for the lands to be included were contradictory. The major resolution to amend land laws proposed that the highly developed sugar cane lands under Territory leases, which were to expire between 1917 and 1921, were not to be included as homestead lands but were to be continued for lease to the highest bidder. This would have retained the agricultural lands in the hands of the sugar interests. The original Hawaiian rehabilitation proposal, however, would have made these lands available for homesteading. A compromise was worked out between sponsors of the rehabilitation measure and the sugar interests whereby all acreage cultivated for sugar or held under special leases were to be excluded from Home lands, but 30 percent of the revenue derived from the leasing of sugar cane lands was earmarked as income for the rehabilitation program.

This compromise then resulted in the first obstacle to establishing accountability of all Home lands, designated as "available lands" under the Act. Section 203 of the Act set aside as "available lands" certain public lands, which according to the Act totaled 203,500 acres, excluding "...(a) all lands within any forest reservations, (b) all cultivated sugar-cane lands, and (c) all public lands held under a certificate of occupation, homestead lease, right of purchase lease, or special homestead agreement..." DHHL and DLNR officials informed us that they are not aware of any maps showing lands available and designated as Home lands at the time the Act was passed or at the time the State of Hawaii assumed responsibility for the lands upon Statehood. According to DHHL this lack of accurate descriptions of available land is demonstrated in Table 69.

The exclusions of the Act are also factors that make it difficult to define the Home lands acreage because of the imprecise information concerning the lands under the exclusions at the time of the Act. According to DHHL, there were approximately 9,704 acres in forest reserve at the time of the Act. According to the cognizant Deputy Attorney General there may be approximately 14,197 acres of additional forest reserve land that were designated as such after the Act. And, approximately 44 of the 14,197 acres were not included in the Akinaka Study or the DHHL land inventory records, and another 466 acres were included in the Akinaka Study but not the DHHL land inventory.

The exclusion of public lands under sugar cane cultivation, according to DHHL, accounts for a "loss" of approximately 4,000 acres in the areas of Waimanalo and Lualalei on the island of Oahu, and Anahola-Kamalomalo on the island of Kauai. The identification of lands under sugar cane cultivation at the time of the Act was not documented. The process of identifying these lands involves a detailed review of sugar cane leases that were in effect when the Act was passed. DHHL has identified 809 acres that may have been improperly excluded from Home lands in the Anahola-Kamalomalo area, partly because of their questionable identification as sugar cane lands.

Other examples of discrepancies or problems relating to the land inventory are as follows:

1. The blue book maintained by DHHL included many adjustments of acreages made by DHHL personnel and the adjustments did not contain explanations of adjustments or make reference to supporting documents.

2. The Akinaka Study did not include an area known as South Point in Kamaoa-Puueo on the island of Hawaii. According to DHHL the excluded area consists of 699 acres.

3. The Humuula area on the island of Hawaii, according to the Akinaka Study, consists of 52,764 acres of Home lands while the DHHL blue book shows 52,781 acres. Further, a question has been raised as to whether this Home lands area should only be 49,100 acres. According to a Deputy Attorney General, State of Hawaii, the Commission only selected 49,100 acres in the required time period, 1921 through 1929.

4. Lands used for roads in some cases have been included in the DHHL blue book and in other cases the road acreages were excluded. We were unable to satisfy ourselves as to the rationale of the exclusions or inclusions and were unable to determine the amount of excluded road acreage.

5. Our limited comparison of tax maps with the DHHL blue book identified two parcels of land

totaling 456 acres as Home lands that were not included in the blue book.

6. There are Home lands which have been withdrawn from use by DHHL under various Governor's Executive Orders. As discussed in detail elsewhere in this report, the Attorney General and the courts have ruled that the Governor's Executive Order powers do not apply to Home lands; therefore, the withdrawals were not legal. The Akinaka Study and the DHHL blue book have excluded some of the acreage covered by Executive Orders. For example, 1,356 acres set aside by Executive Orders 382 on January 21, 1930 and 599 on December 22, 1933, are not included in either the Akinaka Study or the DHHL blue book. These lands in Lualualei, on the island of Oahu, are used by the United States Navy as part of radio transmitting station and an ammunition depot.

7. The Akinaka Study included 40 acres in Kealakehe and 48 acres in Milolii which represented acreage to be obtained in an exchange that was never consummated.

8. The tax maps show three parcels of land totaling approximately 148 acres of State of Hawaii lands. According to a Deputy Attorney General it appears that the parcels should be Home lands. The parcels were returned to the control of the Commissioner of Public Lands of the Territory of Hawaii to be used for the Molokai Airport under Hawaiian Homes Commission Resolution 61, October 12, 1938, and Resolution 77, May 13, 1942. The parcels were not included in the DHHL blue book inventory of public lands.

9. One parcel of Home lands is now under private ownership and no lands were received by the Commission in exchange. The land consisting of 8 acres was withdrawn under Governor's Executive Order 545 for a tree nursery and forest ranger station. Then in 1947, the Territory Board of Public Lands included the land in a larger parcel of land exchanged for private-owned land to be included in the Kohala Forest Reserve. The DHHL land records do not include the exchanged lands in the Home lands inventory.

10. The Act's use of the term "more or less" has created problems. For Home lands in an area where the acreage received by DHHL was less than the acreage provided by the Act no adjustment was made. To illustrate, in the area of Kalaupapa on the island of Molokai, DHHL received only 1,247 of the 5,000 acres "more or less" mentioned in the Act because the area contained only this amount of acreage. On the other hand, when the available acreage was more than the acreage mentioned in the Act, such as was the case in the Kawaihae I area on the island of Hawaii, DHHL did not receive the benefit of all of the acreage in excess of the Act amount. For the Kawaihae I area, DHHL was informed by the Attorney General in a July 19, 1966 memorandum that because the area of Kawaihae I

> consisted of more than 10,000 acres and the Commission did not make a selection from the acreage available, the grants of public lands in the area were valid. The Act, however, provided that the Commission must make selections of land in only three areas and Kawaihae I was not one of these. Thus, public grants were made of lands in the Kawaihae I area for which DHHL may have a claim because they did not acquire the total acreage mentioned in the Act. The present Deputy Attorney General stated that the 1966 opinion would be reviewed.

There are two major reasons for DHHL not establishing a current and accurate inventory of Home lands for which it is the trustee. First, DLNR never established a current and comprehensive inventory of the State, public, and Home lands. Until 1966, DLNR administered the Home lands that were not yet homesteaded. DHHL began assuming full responsibility for all Home lands in 1965 but did not receive an accurate, current, and comprehensive inventory of the lands from DLNR. Second, due to limited financial resources and other priorities, DHHL has not expended the resources necessary to establish a complete, accurate, and comprehensive land inventory.

According to the Akinaka Study, there remain Home lands for which boundaries and areas are based on very early surveys and determinations and until such lands are accurately resurveyed, doubts will necessarily linger as to the true boundaries and acreages of the available lands. A rough estimate by DHHL is that 40 percent of these lands have not been accurately surveyed.

Land Withdrawals

There needs to be an aggressive and accelerated approach to resolve the issue of Home lands which have been withdrawn for public use. According to DHHL there are approximately 17,270 acres of Home lands that are being used by Federal, State, and county governments for public purposes. Approximately 13,600 acres of these lands have been withdrawn under Governor's Executive Orders (GEO's) issued by the Territorial and State Governors.

The State of Hawaii Attorney General has determined that the GEO powers did not extend to Home lands; therefore, the withdrawals were not in accordance with the Act. This opinion was confirmed in a court case involving Home lands withdrawn for the General Lyman Airport on the island of Hawaii. According to DHHL records, the Home lands under GEO's and their use are as follows:

Public Service	Acres
Airports	176
Schools	17
Parks	30
Forest/Conservation	767
Game Reserve	11,123
Public Service	128
Right of Way	4
Military	1,356
	13,601

Although the Attorney General in 1975 issued the opinion that GEO powers were not applicable to Home lands, DHHL, because of limited resources, has not made the effort necessary to identify all lands that have been withdrawn for public use, determine the issues related to the withdrawals, and develop recommendations for the Commission to consider in determining the course of action to take. Therefore, the above listing does not necessarily cover all of the acreage under GEO's.

DHHL has been pursuing action to resolve two cases of withdrawn lands because of related lawsuits. One of the cases involves a lawsuit filed by the Keaukaha-Panaewa Community Association, a group of native Hawaiians, against the Commission and other defendants. The case involves approximately 25 acres of Home lands withdrawn for a flood control project. The second lawsuit involved approximately 92 acres of Home lands withdrawn for the General Lyman Airport and was filed by the Commission.

The flood control project case resulted in a September 1, 1976 declaration and conclusion of law by the U.S. District Court for the District of Hawaii which stated that the Commission had breached their trust or fiduciary duties by: (1) allowing the use of more than 25 acres of Home lands under the land exchange provisions without first satisfying the prerequisites for an exchange, (2) issuing a license for an unlawful purpose, (3) permitting the uncompensated use of these lands, and (4) allowing the needs of the general public, as opposed to the needs of the native Hawaiians, to control decisions made concerning the project.

The Court also ruled that the transfer of these lands was unlawful, in part, because the Commission had failed to obtain the approval of the Secretary of the Interior prior to allowing use and alteration of the lands, thereby depriving native Hawaiian beneficiaries of the protection afforded by his independent review. And, it ruled that Home lands cannot be used for the benefit of persons who are not beneficiaries under the Act without first obtaining reasonable compensation for such use, when otherwise permissible, based upon sound economic and accounting principles.

The Ninth Circuit Court of Appeals reversed the District Court, not on the merits of the case, but on jurisdictional grounds, holding that only the United States has the right to enforce the State's obligation by a breach of trust suit.

The Deputy Attorney General, State of Hawaii, informed us that DHHL and DLNR are now in the process of identifying lands to be exchanged for the lands used in the flood control project and that the DLNR Board will be acting on the proposal soon. The target date to submit an exchange to the Secretary of the Interior for approval is December 1982.

The Third Circuit Court of the State of Hawaii issued on September 24, 1980, an order granting a partial summary judgment for DHHL, the plaintiff in the case involving the General Lyman Airport in Hilo, Hawaii. The Court in this case ruled that the executive order powers of the Governor in respect to the lands of the Territory or State did not, and do not now, extend to Home lands.

As a result of the court's judgment in the General Lyman Airport case, the State of Hawaii Department of Transportation and DHHL have negotiated a 30-year lease for the 91.6 acres of Home lands withdrawn under GEO's. The lease provides for a one-time payment of $401,185 for all past use of the land, and annual lease rental of $481,422 retroactive to April 1, 1975, with the rentals to be redetermined at 10-year intervals. This lease will result in a substantial increase in revenues for DHHL operations and development of Home lands.

In regard to other withdrawn land, the Commission initiated negotiations with DLNR in 1977 to exchange approximately 30,000 acres of lands which DHHL purported to be Home lands, for State lands of equivalent value. Approximately 11,927 acres of the Home lands were lands withdrawn under GEO's. According to testimony of the (then) Chairman of the Commission, action by DLNR in responding to the exchange proposals was taking time because of other priority workload considerations. And, according to the current Chairman, this exchange proposal has been withdrawn by DHHL because it does not have a complete and comprehensive land inventory and the Commission did not want to give up land that they knew nothing about.

Home lands in the Puukapu area on the island of Hawaii were withdrawn under GEO's in 1955 and 1958 for development of reservoirs as part of the Lalamilo Irrigation System operated by the State. Although the reservoirs are on Home lands, native Hawaiian homesteaders received no benefits, until 1982, and DHHL received no compensation for use of these lands for the irrigation project even though the State receives revenue from delivery of the irrigation water.

The irrigation system was designed to serve the Lalamilo farm lots area consisting of 670 acres. According to the DHHL Homestead Project Manager, the Lalamilo farm area is a State of Hawaii project on State lands and the farms are leased to individuals who are not necessarily native Hawaiians. The irrigation system includes the two reservoirs situated on Home lands; the 60-million-gallon Waimea Reservoir situated on 22.7 acres under GEO 1707 issued December 1, 1955; and a 135-million-gallon lake (Puu Pulehu Reservoir) originally under GEO 1869, November 28, 1958, which was canceled on July 11, 1980. We were told that the lake receives the overflow water from the Waimea Reservoir and, at the time of our review, there was no water delivery system from the lake to any farms. A transmission pipe delivers water to the Lalamilo farms from the Waimea Reservoir and runs through Home lands under an easement covered by GEO 1707.

Until recently, homestead farms in the Puukapu area were served only by domestic water which costs more than irrigation water. According to a March 1982 study prepared by the United States Department of Agriculture, the monthly water bill for an average size truck farm using domestic water would be about $230, compared to $60 if agricultural water was used. We were told that the homesteaders were given an opportunity to be connected to the irrigation system at the time the system was put into operation. We were unable, however, to satisfy ourselves as to the reasons why the homesteaders were not connected to the system at that time.

We conclude that, unless the Commission and the State of Hawaii assign a high priority and provide the staff and resources necessary for resolving the withdrawn lands issue, it will take many years before DHHL receives compensation or lands in exchange for Home lands that have been withdrawn for public use.

Land Exchanges

There have been seven exchanges of land under the provisions of Section 204 of the Act which have been submitted to and approved by the (then) Secretary of the Interior or an authorized agent. The Act allows exchanges of land for other publicly or privately-owned lands of equal value in order to consolidate Home land holdings or to better serve the purposes of the Act. The seven approved exchanges involved 3,021 acres of Home lands for 6,924 acres of other public or private lands. The last such exchange was approved by the Secretary of the Interior on

March 16, 1967. About 19.5 percent of the land (1,348 acres) received by DHHL in these exchanges is used for homesteading purposes, and about 75 percent (5,193 acres) is under general leases and revocable permits that generate approximately $30,000 in annual revenues. One general lease covering 5,078 acres was being renegotiated and could result in a substantial increase in revenues.

The propriety of three of the seven exchanges is questionable as the provisions of the Act apparently were not complied with. Two exchanges involving 194 acres of Home lands, one exchange for 192 acres and the other involving 2 acres, were exchanged for 194 acres of public lands in 1962. The exchanges were on an acre-for-acre basis and involve lands in the vicinity of the General Lyman Airport in Hilo, Hawaii. DHHL and DLNR officials could not, at the time of our review, locate any appraisals to support that the exchanges were on an equal value basis as required by the Act. In addition, we noted that the 194 acres received by DHHL in the exchanges were located near a county dump and landfill and were not being used for homesteading purposes.

The third exchange involved a total of 268 acres of Home lands on the islands of Hawaii, Kauai, Molokai, and Oahu that had been made available to the State for various purposes. DHHL received 5,078 acres of public lands in the Piihonua area on the island of Hawaii. According to a letter dated May 17, 1966, from the Chairman of the Board of Land and Natural Resources, which outlined the basis of the exchange, the values of lands to be conveyed by DHHL were based on the tax-assessed values in the year each area was available for State use (1962 through 1966), and the value of lands to be conveyed by the State were based on the 1966 tax-assessed values. We question the equality of value when Home lands are based on assessed values before 1966 and exchanged lands are based on 1966 assessed values. In addition, the State retained the mineral rights to the State lands exchanged. There was no evidence available that DHHL had obtained independent appraisals of the land exchanged, nor was any documentation provided to show that retention of the mineral rights was considered in the tax assessment values.

Recommendation

We recommend that the Hawaiian Home Lands Commission take the steps necessary to establish accountability for the lands that it is charged with administering. Although the resolution of land status problems will require a commitment of resources, including money, we believe that such a commitment is necessary for the Commission to meet its trust responsibilities under the Act. We further recommend that the Commission take the steps necessary to regain control of Home lands which are now used, without compensation, for purposes not compatible with the intent of the Act.

2. Program Accomplishment

The Act's objective of enabling native Hawaiians to recapture possession and control of the land has not progressed rapidly during the 60 years of the Act's existence. According to DHHL's annual report, as of June 30, 1981, a total of 3,034 native Hawaiians have been given possession of approximately 26,062 acres. An additional 13,706 acres of community pasture have also been provided to native Hawaiians. Thus, less than 40,000 acres or about 20 percent of the lands made available by the Act are now controlled by native Hawaiians. Further, there are over 7,000 native Hawaiian applicants on the homestead eligibility list and some of these applicants have been on the lists for as long as 30 years.

Among the factors that have reportedly impeded implementation of the Act objectives are the lack of money, the nature and location of the land, and the interests and desires of native Hawaiians.

Nevertheless, progress has improved in recent years. During the past 10 years the number of homesteaders increased by 1,015. Thus, approximately 33 percent of the present homesteaders have been placed on the land during the last 10 years of the 60-year history of the Act. Further, during the past 6 years the State has provided over $42 million of State funds for planning, design, construction, and financing of development improvements and during these same 6 years 669 homesteads have been placed on the land and 373 replacement homes have been built and financed. The records indicate that prior to 1973 there was very little funding outside of DHHL generated revenues from leases, royalties, and interests.

The original intent of the Act was for native Hawaiians to become subsistent or commercial farmers and ranchers. However, less than 2 years after the passage of the Act, Congress amended the Act to permit residential lots. Since then, the demand of native Hawaiians for residential lots has far exceeded the demand for agricultural or pastoral lots. For example, 87 percent of the applicants on the June 30, 1981 eligibility lists desire residential lots. However, 64 percent of the applicants for residential lots have applied for lots on the island of Oahu, but only about one percent of the available land suitable for residences is on Oahu.

DHHL developed a 10-year general plan in 1975, that established four major goals and objectives for the 10-year period ending in 1985. A comparison of the results achieved during the first 6 years with the objectives indicates that three of the goals are not being achieved: housing for new homesteaders, allocating agricultural lands, and reducing the acreage of lands used for income purposes. (See Table 70.) During the 6-year period, over 1,000 homes were built, including the 669 homes in Table 70 and 373 replacement homes. Also, the 793 acres of increased agricultural land do not include 5,800 acres of pineapple land taken out of production during the 1975-1978 period.

A measure of program accomplishment is the number of homesteaders served and the amount of the land in the possession of native Hawaiians. According to the DHHL 1981 annual report, the number of homesteaders and the amount of acreage utilized is as follows:

Type of Homestead	Number of Homesteaders	Number of Acres
Residential	2,618	1,330
Farms	347	7,619
Ranches	69	17,113
Community pasture	*/	13,706
Total	3,034	39,768

The Chairman, DHHL, stated that in evaluating their accomplishments it should be noted that Hawaiian families tend to be large, averaging five or six members per family and, therefore, each homestead could be benefitting several Hawaiians.

Another measure of program accomplishment is obtained by a review of the eligibility lists for homesteads. There were 7,225 eligible applicants for homesteads as of March 15, 1981, summarized in Table 71. Our analysis of the lists showed that over 18 percent of the applicants had been on the eligibility lists for more than 15 years. This analysis is summarized in Table 72.

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*/ Community pastures are available for use by all the homesteaders living in the area of a community pasture.

Although, as discussed elsewhere in the report, the complete validity of the eligibility lists is questionable, it is the only available means of determining the number of native Hawaiians who wish to be but have not been placed on the lands. Using an average family size of five to six members per family would mean that as many as 43,000 people are waiting to be placed on the land, recognizing, however, that not all family members meet the criteria necessary for classification as native Hawaiians. There is apparently no accurate data on the number of native Hawaiians who could be beneficiaries under the Act. There was an attempt in 1980 to identify the number of native Hawaiians by using data available in the State of Hawaii, Department of Health, Research and Statistics Office. However, because of the methods used, the result which totaled 45,827 native Hawaiians is considered to be low.

Housing Program

The housing homestead program accomplishments under the Act are, in part, restricted by the availability of funds. The major emphasis under the program is the subdivision concept under which single family residences are built on all islands, with lots ranging from about 7,500 square feet on the island of Oahu to one acre on the island of Molokai. Under this concept and the Act, DHHL contracts and pays, at an estimated cost of $30,000 per lot, for design and development of the subdivision which includes streets, curbs, sidewalks, drainage, street lights, utility access, sewer or cesspool systems, and other facilities. In addition, DHHL provides or arranges the financing, currently estimated at $40,000 per home, at favorable interest rates, for the construction of the homes because the applicants are normally unable to obtain conventional financing. For example, the financing for the 230 homes to be constructed on the island of Oahu during 1982 will be from two sources with interest rates ranging from 8 3/4 percent to 13 percent. The United States Farmers Home Loan Administration will provide $1.6 million for 40 loans and the State of Hawaii will provide $7.7 million for 190 loans.

Also, as part of the housing program, DHHL uses its available funds to maintain a home repair loan fund, again because of the homesteader's inability to obtain conventional financing.

It is for note that at the time of our audit DHHL was in the process of screening and selecting 230 applicants for awards of new residential lots and homes on the island of Oahu. In this instance, DHHL is initiating a new approach by building seven model homes so that the applicants can select the model best meeting their needs. DHHL has tentatively scheduled the development of 710 additional residential lots by 1987.

Farm and Ranch Homesteading Program

The farm and ranch homesteading program, which under the Act was intended to encourage native Hawaiians to take up farming and ranching as a means to achieve social and economic well-being has not yet been very successful. While there are some successful farmers, over 60 percent of the farm tracts are not in full cultivation, including 42 percent that are not under any cultivation. Also, it is estimated that at least 34 percent of the homestead ranch acres are subleased by the homesteaders to others, not necessarily native Hawaiians, in the form of grazing agreements. We estimate that only 16 percent of total available acreage is now under cultivation or being used as ranch land by homesteaders.

There are many reasons why the native Hawaiian farming and ranching program has not progressed rapidly. The reasons cited include: (1) the inadequate financial resources of homesteaders; (2) the lack of farming expertise; (3) the lack of a serious commitment to farming on the part of the homesteaders; (4) the failure of the Commission to enforce its own rules and regulations concerning the use and cultivation of the land, and the provision of the Act concerning subleases; (5) the priority of DHHL during the past 6 years to concentrate on the residential program; (6) the character of land provided by the Act; (7) water availability problems; and (8) the reluctance of native Hawaiians to undertake the inherent risks associated with agricultural enterprises.

DHHL has, admittedly, not concentrated its limited staff and financial resources on the development and implementation of its farming and ranching programs.

Molokai Farming Problems: The most striking example of the difficulties of implementing a successful farming program occurred on the island of Molokai. The original Act had a 5-year limitation period and allowed only lands on Molokai, and the Waimanu, Keaukaha, and Panaewa lands on the island of Hawaii to be used for the purposes of the Act. The first homesteader moved to Molokai in July 1922 and in 1924 the first residential homestead awards were made on the island of Hawaii. According to a 1975 study known as the Kanahele report, during the first 4 years diversified farming on Molokai achieved unexpected results. Alfalfa, tomatoes, corn, watermelons, sweet potatoes, and cucumbers were planted with success in the Kalamaula area. In addition to the crops, the homesteaders raised livestock of which pigs turned out to be the most profitable. By the end of the first 4 years the program became the "Molokai miracle." In the meantime, homesteaders in the Hoolehua area of Molokai began diversified dryland farming with some success. The Territorial Legislature, in 1927, found that the homestead programs on the island of Molokai and Hawaii were a success and requested the Secretary of the Interior and the United States Congress to extend the homestead program to all of the other islands. The Act was amended on March 7, 1928 to remove the 5-year limitation.

The "Molokai miracle" turned into a failure by 1930 because, according to the Kanahele report, the high saline content of the irrigation water combined with evaporation had ruined the fields and there was no other adequate water source. Also, fruit flies had destroyed the watermelon crop, and cucumbers were not successfully marketed. Diversified dryland farming in the Hoolehua area continued without much success due to drought and low yield. The Commission, in 1945, concluded that diversified farming in Hoolehua would not be successful because the cost of developing water for irrigation was too high and too many homesteaders were unable to farm because of age. The Commission recommended to the Territorial Legislature that the policy of diversified farming in Hoolehua be abandoned.

According to the Kanahele report, there was one crop, pineapple, that was achieving success in the Hoolehua area because it required less water than other crops. Contracts with a pineapple company were signed in 1926 whereby homesteaders were to supply the company with fruit at a minimum guaranteed price. The company was to also provide financing and the necessary technical assistance for cultivating and harvesting the fruit.

The Kanahele report states that the Commission and the homesteaders had, by 1945, turned to pineapple as the only viable hope for the homestead economy. Many homesteaders were employed by the pineapple companies. Pineapple was growing on 4,000 acres by 1943 and by 1951 on more than 5,800 acres, or almost all of the available homestead agricultural lots in Hoolehua. The companies which had the marketing expertise provided an income source that no other crop had provided. Net income to homesteaders in 1938 was $430,000, and some homesteaders received as much as $10,000 in a single season during the depression. Pineapple did so well that before long the homesteaders were, in effect, leasing the land and the pineapple companies were farming the homestead acres.

On October 10, 1972, one of the pineapple companies announced that because of economic considerations it was going to close its pineapple operations on Molokai at the end of 1975, and several months later the other company announced that it would substantially reduce its pineapple operations in 1977. Thus, as a result of relying on a one-crop and two-company supported economy, 3,100 acres went out of production in 1975 and another 2,700 acres in 1978. Thus, 168 homesteaders no longer had income from planters agreements, and 75 homesteaders, who also worked for the pineapple companies, had lost their jobs. Currently, most of the 5,800 acres are unused. The "Molokai miracle," which showed that the agriculture program could be successful and justified expansion of the Home lands program, dissolved into an economic disaster 50 years later.

According to representatives of the Soil and Conservation Service, U.S. Department of Agriculture, farming can be a success on Molokai, but there are many problems pertaining to homestead lands that will have to be overcome before homesteaders can achieve success. Among these are: planting of windbreaks to protect crops from Hoolehua's high winds; breaking up of the soil compacted by the roads developed by the pineapple companies; determining the effects of the pesticides used by the pineapple companies on the soil; upgrading the soil quality; obtaining assurances that there is a commitment on the part of the homesteaders to develop farms; and a redesigning of the 35-acre farm lots which are not conducive to family type farming because they are long and narrow. Other problems identified with farming on Molokai include the lack of marketing facilities and expertise and a dependable transportation system to get the products to market. DHHL hired an agricultural expert in 1981 and is now in the process of studying the problems.

In addition, DHHL has been one of the principal supporters of Maui Community College's development of a 60-acre farm project started with $2.5 million in Federal funds. The project was initially established to work with teenagers, many of whom were from homesteading families, in order to introduce them to farming. DHHL anticipates that the project will be established as an institute to provide "hands on" technical knowledge to the native Hawaiians on the island of Molokai.

DHHL is also working on a development program for farms which are not under cultivation located in the

Puukapu and Panaewa areas on the island of Hawaii.

In summary, while attempts are being made to improve the farming homestead potential, it is our conclusion that time, and a substantial increase in resources, is needed in order to develop and implement a viable farming program.

Subleasing of Ranch Land: The subleasing of ranch lots by homesteaders to other individuals, some of whom, reportedly, are not native Hawaiian, is being accomplished through the use of grazing agreements that provide for the payment of a fee for the grazing of cattle. There are at least 20 homestead ranch lots with 5,893 total acres in the Waimea area on the island of Hawaii that are subleased to other individuals.

DHHL personnel in Waimea have submitted the grazing agreements they have been able to obtain for such lots to DHHL headquarters for approval. However, we were told by the Chairman of the Commission that the agreements have not been approved because to do so would acquiesce to the use of homestead lands by non-native Hawaiians which is not compatible with the intent of Act. DHHL or the Commission have not taken action to stop this practice. According to section 208 of the Act, as amended, the homestead lessee "...shall not sublet his interest in the tract or improvements thereon."

Conclusion

Progress toward the Act's objective of placing native Hawaiians on the land has been slow during the 60 years since enactment. And, although progress has improved during recent years, the ultimate objective does not appear to be near.

Under current concepts the needs for financial resources appears to be one of the primary obstacles to rapid progress toward the end objective. For example, we estimate that over $190 million will be needed to provide fully improved lots for each of the applicants for residential lots on the current eligibility lists and another $254 million of funds will be needed to provide residential construction loans to these people. Add to this the cost of improvements and loans for farm and ranch applicants and the cost of administering the program and the total costs could easily exceed $600 million. Considering that the State is currently contributing between $6 and $7 million annually and lease income is averaging about $1.4 million per year, it will require over 50 years to meet the Act's objectives for the native Hawaiians on the current eligibility lists.

Recommendation

1. In our opinion, the circumstances indicate that there is a need to consider conceptual alternatives. We, therefore, recommend, together with the other recommendations in this report, that the following alternatives be considered:

   a. Determine whether it is necessary to provide fully improved residential lots at no cost to the applicant. Alternatives to consider are reductions in the extent of improvements provided and/or a requirement that applicants pay for certain improvements.

   b. Determine if an alternative to direct loans is feasible, such as some type of guaranteed subsidized loan program using commercial funding sources.

2. In addition, we recommend that the issue of whether native Hawaiian ranchers can award grazing permits to non-native Hawaiians be resolved.

3. Financial Management and Reporting

Improvements are needed in the financial management and reporting systems to provide for the maximization of revenues as well as providing DHHL with the means of making sound management decisions and for providing accurate and timely reporting on the discharge of its trust responsibilities. Our review disclosed that cash management has been ineffective, complete financial statements were not prepared, the accounting system was unauditable, and the required annual report was not based entirely on accurate and supported data.

Cash Management

DHHL has not maximized income by analyzing current cash needs and investing all cash excess to current needs into revenue-producing investments. We estimate that DHHL lost in excess of $100,000 of interest revenue for the 9 months ending February 28, 1982, from uninvested cash of just one DHHL fund and another $180,000 from three other funds.

The Hawaii Department of Budget and Finance invests "excess" cash in time certificates of deposit when so requested by the DHHL fiscal officer. These investments are authorized by Section 225 of the Act. Section 225 also specifies the DHHL fund accounts to which the interest revenues are to be credited. The certificates of deposit can be purchased for periods as short as 30 days in the amount of $100,000 or more. During the 9 months ending February 28, 1982, the rate of return has varied on such certificates from about 10.5 percent to 16.2 percent.

We reviewed the cash balances of the Hawaiian Home Development Fund for the 9 months ending February 28, 1982. During this period, the development fund had an average uninvested cash balance of about $1.2 million. Investments were made in only 2 out of these 9 months. In our opinion, the uninvested cash balance was greatly in excess of current operating needs, especially considering that revenues exceeded expenditures during the 9-month period. We estimate that DHHL could have generated additional revenues of over $100,000 by investing the development fund cash that was excess to immediate needs.

We also reviewed the cash balances for the Hawaiian Home Administration Account, the Hawaiian Home General Loan Fund, and the Native Hawaiian Rehabilitation Fund. The average uninvested cash balances in these three funds totaled about $2 million for the 9 months ending February 28, 1982. If this money was fully invested, we estimate that DHHL could have generated additional revenues of about $180,000.

We did not attempt to determine the total amount of interest for all DHHL fund accounts, nor did we determine how long this situation existed. But we believe that inadequate cash management is a major problem, since DHHL must rely largely on internally-generated monies to fund its programs.

We believe this problem exists because aggressive cash management has not been stressed as a high priority by the Commission. We also believe that the lack of adequate financial statements as discussed below may have caused the Commission to be unaware of the situation.

Financial Statements

Complete financial statements are not prepared; therefore, the overall financial condition of DHHL is not readily apparent. Partial statements are prepared for the DHHL annual report and for the monthly Commission meetings. But these statements only contain selected financial data for certain fund accounts. The last complete financial statements that we could locate were for the fiscal year ended June 30, 1972.

Because the overall financial condition is not apparent, inappropriate management decisions may have been made. An example is the previously discussed management of DHHL's cash resources.

Complete financial statements provide a degree of visibility pertaining to the management of DHHL resources, from the perspective of both management and outside parties. And, review of financial statements by management can serve as the basis for questions concerning certain account balances or other sensitive financial matters.

One such account balance that should have raised a question was an accounts receivable balance of $365,781 in the Hawaiian Home Loan Fund, that is due from the Borrowed Money Fund. This type of interfund transaction is questionable because it is conceivable that the Borrowed Money Fund was used so the funds could be loaned at a higher rate of interest, since the Act sets the rate of interest on loans from the Hawaiian Home Loan Fund at 2.5 percent. DHHL fiscal office personnel could not provide us with information as to when or why the transaction(s) was made.

Another problem related to the financial reports and records is that they do not separately identify the expenses of the Molokai water system. Thus, there is no assurance that water rates are adequate to recover the operating expenses of the water system.

We were informed by DHHL officials that there have not been any requests for DHHL financial statements, and that DHHL has higher priorities for its limited staff resources. However, we believe that annual financial statements, and quarterly or monthly statements, if practical, should be available, especially for a governmental organization with cash balances of about $10 million and loans/accounts receivable in excess of $32 million.

Accounting System Is Not Auditable

There has not been any financial audit of DHHL's funds and accounts conducted since the Hawaii Legislative Auditor attempted to audit the DHHL loan funds for the fiscal year ended June 30, 1978. The last audit of all DHHL funds and accounts was performed by the Hawaii Comptroller, for the 10-year period ended June 30, 1972.

The Legislative Auditor's report on the attempted audit of the fiscal year 1978 loan funds concluded that "the department's financial records are inaccurate and unverifiable," and that the records "were not in an auditable condition." Accordingly, the auditors were unable to express an opinion on the financial statements.

In our opinion, the accounting system is still in an unauditable condition. In addition, there are no financial statements (combined balance sheet, statement of revenues and expenses, and statement of changes in fund balances) prepared by DHHL upon which an opinion could be expressed.

The main deficiency in the accounting system is that key reconciliations are not performed. As noted in the Legislative audit report, there were discrepancies between the accounting records maintained by the Hawaii Department of Accounting and General Services and the records of DHHL. In addition, there were discrepancies between DHHL's general ledger and subsidiary ledgers.

The task of performing reconciliations has been assigned to temporary DHHL personnel, and there has been a loss of continuity when positions are vacated and refilled. At the time of our audit, no reconciliations had been attempted for about 8 months.

The audit function is an important part of good financial management. It helps to provide assurance to management and interested outsiders concerning the safeguarding of assets and the reliability of financial data. Accordingly, we believe that it is important that (1) the recommendations of the Legislative Auditor be implemented, (2) the accounting system be maintained on a current basis, and (3) regular audits be performed.

Accuracy of Annual Report Data

DHHL needs to improve the management information system so that data included in DHHL's annual report is accurate and supported. The Act requires that DHHL submit an annual report to the State Legislature. This report is also widely distributed to the Hawaiian community and provides information by which the Hawaiian community can evaluate the DHHL, and so it is imperative that the data is accurate.

Most of the quantitative data in the report is extracted from various records and monthly reports, but the data has not been reconciled with the source records for some time and there are differences between the records and the annual report. Also, we noted that some of the records were not accurate or complete.

For example, the DHHL listing of homesteaders showed that there were 165 more homesteaders on June 30, 1981, than the 3,034 reported in the fiscal year 1981 annual report, and there were significant differences by island and type of homesteader (see Tables 73 and 74).

We also noted that two individuals with pastoral or agricultural lots were not included as such in the homesteader list. Due to the amount of effort it would entail, we did not attempt to reconcile the list to the annual report, or verify the list. However, we noted one major cause of the differences was that homesteaders who had 35-acre farms and 5-acre residential lots on Molokai were counted twice. Also the problems with the varying unreconciled sources of acreage data previously discussed under "land inventory" contribute to the problems of the validity of the data in the annual report.

Recommendations

We recommend that the DHHL improve its financial management and reporting system to correct the deficiencies we noted in cash management, financial statements, the accounting system, and the annual report. Specifically, this includes:

1. The timely investment of all available monies not immediately needed for current operations.

2. The proper and timely maintenance and reconciliation of accounting records.

3. The preparation of financial statements and the independent audit thereof.

4. Verification, to the extent possible, of the accuracy of homesteader and acreage data to be included in the annual report.

4. Eligibility Lists

Our review has disclosed that certain improvements are needed in the procedures used to maintain the existing lists of eligible applicants for Home lands. But more important changes are needed to assure the currency and applicability of the lists and to remove uninterested applicants from the lists.

In order to qualify for inclusion on the lists a person must be 21 years of age and have at least a 50 percent native Hawaiian blood quantum. In addition, in order to actually receive a homestead lease, the person must be qualified to perform the conditions of the lease and be in need of financial assistance and not be delinquent in payment of any obligation to the State or its political subdivisions. One of the conditions of the lease is that the applicant is financially able to assume the indebtedness outstanding against the premises to be leased or to assume the indebtedness that must be incurred to enable the applicant to occupy the premises within one year after award of the lease.

The methods used to select applicants for awards from the eligibility lists have gone through various changes. According to the DHHL Annual Report for 1976-1977 there were no established or consistent procedures followed prior to 1963. Some awards were made by lottery, and other various procedures and criteria were used.

A priority system was established in 1963 where certain land areas were defined and eligible applicants were placed on an area list in priority ranking by the Hawaiian blood quantum of the applicant successor and the date of application. Three blood quantum priorities were established: Priority I successor to be 100 percent Hawaiian, Priority II successor to be from 50 up to 100 percent Hawaiian, and Priority III no qualified successor. The applications were ranked within the three priorities by date of application. In this system, applicants in Priorities II and III were not being awarded any land when there was an applicant in Priority I, regardless of the date of application.

A new system was established in 1972 whereby future applicants would no longer be ranked by blood quantum. Applicants on the existing lists would retain their ranking, but as of August 1972 all new applicants were ranked by date and time of application.

A problem with this method developed when new homestead areas were made available. The rules required that any applicant requesting transfer to another area list had to forego the original application date and be placed at the bottom of the list.

The present system was established in 1977 with the initiation of island-wide eligibility lists for all types of awards. The existing priorities and area lists were retained, and all of the previous applicants were also placed on the island-wide list in chronological order. New applicants are placed only on the island-wide list in chronological order. Any awards in an existing area must be selected from the old area list first. If new areas are opened, the awards are to be made from the island-wide list and the earliest applicants are considered first. Another change was that a qualified spouse or child could assume the application rank of a deceased applicant.

We noted that DHHL has not notified applicants who had filed since June 1981 whether their applications had been approved. DHHL rules and regulations provide that DHHL determine if an applicant is qualified within 30 days after all required application documents have been supplied. Thus, recent applicants did not know if their applications have been accepted and approved. Near the end of our review, DHHL began notifying applicants who have filed since June 1981.

Throughout the various ranking systems, there has not been a system of application accountability numbers whereby a single series of numbers is used and a number is assigned once to an application. As a result, there is no system to assure that all applications have been accounted for or that some applications have not been lost. A numerical log of applications showing status of applications and award would provide DHHL with a method of accounting for applications.

Applications are removed from the eligibility lists only by specific request of the applicant or by death of the applicant without qualified successor. DHHL does not have current addresses for a large number of applicants and attempts to contact the individuals have not been successful. DHHL rules and regulations require applicants to notify DHHL of any address changes and require that applicants be placed in a deferred status when there has not been a response after two attempts to contact an applicant. This means that applicants will not be considered for future awards but are not removed from the lists and their ranking is maintained.

The magnitude of the problem is illustrated by the attempt in 1978 to contact 1,318 applicants whose last known address was considered questionable. The 1,318 applicants were listed in a major newspaper on May 31, 1978, and were requested to contact DHHL and update their applications. Responses concerning 554 applicants were received and their files were updated. However, according to DHHL personnel, no action was taken to remove the remaining 764 names from the eligibility lists.

Another example is the screening of 1,000 applicants for the 230 lots to be awarded on the island of Oahu in 1982. The screening process, which began in October 1981, resulted in 371 undelivered letters apparently because the addresses were not current.

In August 1981, DHHL for the first time began classifying applicants as inactive after two unsuccessful attempts to contact the applicant. DHHL's attempt to identify all applicants without current addresses is continuing and it hopes to complete the process during 1982.

There are also a significant number of applicants who for various reasons defer their application for an award of a lot until some future date. When this happens, the applicants remain on the list and retain their positions on the list. There is no limit as to the number of times they may defer their application for lot awards, nor is there any requirement that the reasons for deferment be disclosed. Some of the reasons relate to economic matters such as location of their present jobs, while others defer with the hope that they will receive a more attractive award in the future. Of 1,000 applicants screened for the 1982 award of lots on Oahu, 87 requested deferments of their awards until some future date.

Another problem affecting the viability of the eligibility lists is demonstrated by the fact that there are 194 applicants for Papakolea and 1,755 applicants for Waimanalo, both on Oahu. There is, however, little available land in Papakolea, and not enough land to satisfy the applicants on the Waimanalo lists. According to the Chairman, DHHL, many of these applicants will not accept lots in other areas.

DHHL also has a potentially sensitive issue to resolve before future awards are made in the Waimea area on the island of Hawaii. The issue relates to the cancellation of the 1952 list for the awarding of leases in the vicinity of Waimea. The Commission, in 1952, selected 187 applicants for the award of 48 pastoral lots and 27 applicants for the award of 8 farm lots. The names selected were then drawn by lottery in order to establish the priority from which the final selection was made. The list created by the 1952 lottery was cancelled on May 14, 1956 and, at the same time, the staff of the Commission was instructed to accept new applications for Waimea homesteads.

Some of the 1952 applicants reapplied at that time (1956), and others reapplied later. Some of these latter applicants contend that they should be allowed preference over applicants who were not on the 1952 list. The basis of their contention is that they never received notification that the 1952 list had been cancelled. We noted that there were three awards to individuals in 1962 that were not on the 1952 list. DHHL personnel were reviewing the problem at the time of our review, and had not yet determined if all applicants had been properly notified.

The Legislative Auditor of the State of Hawaii, in a September 1979 audit report, also reported that the eligibility lists contained many applicants whom the DHHL had not been able to contact. The Legislative Auditor recommended that DHHL amend its rules and regulations to provide for removal from the lists those applicants who continually fail to respond. DHHL has been reluctant to make such a change, and at the present time the applicants are being placed in an inactive status rather than dropped from the lists.

Since the eligibility lists are the basis for planning of future projects and awards, we believe there should be a more concerted effort to establish a listing that represents real demand.

Recommendations

1. We recommend that the Hawaiian Homes Commission establish policies and procedures wherein applicants are:

   a. Dropped from the eligibility lists when reasonable efforts to verify their whereabouts and interests are unsuccessful.

   b. Assigned a lower preference priority when offers are rejected and that they be dropped from the listings after a reasonable number of rejections.

2. We further recommend that DHHL:

   a. Notify applicants as to the approval or rejection of their application within 30 days of the receipt of the applications.

   b. Establish a numerical accountability system aimed at providing assurance that all applications are properly accounted for.

5. Leasing Activities

Section 204 of the Act authorizes DHHL to lease to the public any lands that are not required for homesteading purposes. The revenues from these activities, which include general leases, revocable permits, licenses, easements, and rights of entry permits, were about $1.5 million during the year ended June 30, 1981. As a result of the tentative settlement of the Lyman Airport case, the revenues will increase to over $2 million a year. The monies from the leases are currently used for DHHL administrative and operating costs.

DHHL follows State law and regulations in its leasing activities, with one exception, requiring that the lands be leased at a public auction to the highest bidder with a minimum rental (upset rental) determined by independent appraisers. Leases are generally limited to a term of not more than 65 years.

The one exception involves a 1978 amendment to the Act which gives preferences to native Hawaiians in a general lease at the upset rental and without public auction. DHHL has not, with the exception of the Lyman airport lease, awarded any general leases since 1978, pending the establishment of rules and procedures for native Hawaiian preference leases. The rules and procedures have been completed and approved and DHHL was, at the time of our review, obtaining appraisals for future awards under these procedures.

Hawaii land statutes also provide for licenses and permits in certain cases and under certain conditions. Land licenses grant a privilege to enter Home lands for special purposes such as the removal of stone or gravel and may be granted for a period of not more than 20 years. Permits are issued for temporary occupancy of Home lands on a month-to-month basis which may continue for a period not to exceed one year from the date of issuance, with a provision that allows for the continuance of the permit on a month-to-month basis for additional one-year periods.

Prior to 1966, the general leases for Home lands were issued by DLNR. In 1965, the State legislature empowered DHHL to lease Home lands. With the exception of 18 leases covering 16,500 acres still administered by DLNR, DHHL now administers all leases of Home lands. As of June 30, 1981, a total of 93,363 acres of Home lands, including the 16,500 acres noted above, were under leases, revocable permits, or licenses.

The Legislative Auditor of the State of Hawaii, in a January 1979 report, was critical of DLNR's leasing practices for lands. The Legislative Auditor reported that appraisals for establishment of upset rentals were inadequate and not properly documented; there was insufficient use of percentage leases for lands let for business purposes; there were unreasonable delays in reopening of leases and redetermining lease rentals; lands were being leased under permits for long periods of time in violation of the intent of statute; and revenues derived from public lands were not being deposited into the proper fund accounts.

Based on our limited review we found that DHHL was obtaining independent appraisals for general leases and lease rental redeterminations. DHHL lease redeterminations were scheduled at varying intervals of 5 to 20 years and generally were being initiated in a timely manner. Also, DHHL recently began obtaining independent appraisals for significant permits and using tax assessed values for other less significant permits.

We did note two instances where it appears that revocable permits have been continued when general leases would be more appropriate. Revocable permits are to be used for temporary use of land, but DHHL had at least two revocable permits that had been continued for long periods of time. For example, one permit covered the use of lands for a store and improvements on approximately two acres of land. This revocable permit, effective June 1977, has been renewed through May 1982, and we believe that under such circumstances a general lease with lease payments based on operating revenues would be more appropriate. The other example involves a revocable permit for lands under sugar cane cultivation. The revocable permit covers 266 acres of land and contains a clause which is not compatible with the one-year period allowed under the State's statute applicable to revocable permits. The clause allows the lessee up to 25 months before surrendering the lands, so that the lessee would be assured of having a crop mature and be harvested. Thus, a general lease also appears more appropriate to this case.

DHHL personnel stated that these revocable permits were inherited from DLNR in about 1977. They stated that some of the land may be withdrawn for homesteading; therefore, DHHL will probably continue to use revocable permits. However, we did note that DHHL was in the process of obtaining an independent appraisal for the revocable permit involving the store.

Recommendation

In view of the corrective action taken by DHHL, our only recommendation involving leasing is that the two noted revocable permits be converted to general leases because of the stability they offer to the lessee, which in turn can result in increased revenue.

APPENDIX TO
"REVIEW OF HAWAIIAN HOMES COMMISSION PROGRAMS"

This appendix consists of:

- A letter dated August 4, 1982, from George R. Ariyoshi, Governor of Hawaii, to Donald Paul Hodel, (then) Undersecretary, U.S. Department of the Interior; and
- Comments on the Inspector General's draft report, submitted by Governor Ariyoshi.

A. LETTER FROM GOVERNOR GEORGE ARIYOSHI

Dear Mr. Hodel:

Thank you for your letter of July 7, 1982, and the copy of "Review of the Hawaiian Homes Commission Programs," prepared by the Office of the Inspector General, U.S. Department

Generally, the draft is accurate in its description of the problems facing the Hawaiian Homes Commission (HHC) and the Department of Hawaiian Home Lands (DHHL). Detailed comments are enclosed for your review. A copy will also be submitted to the Office of the Inspector General, and to the Federal State Task Force on the Hawaiian Home Commission Act, which is charged with conducting a comprehensive review of all aspects of the act.

In the letter I received March 5, 1982, you stated that the purpose of the independent study was "to determine if the Department of the Interior has adequately executed its trust responsibilities" with respect to the Hawaiian Homes Commission Act (HHCA), the DHHL, and Section 5(f) of the Admission Act of 1959.

This basic and essential issue was not addressed and actually excluded from the draft report. Needless to say, I was disappointed that the very purpose of the independent study is totally omitted.

Hawaii has cooperated with your staff, based on the premise that the state and federal governments share in trust responsibilities. The exclusion of the federal role is a serious concern.

The federal government has been involved in the HHCA from its inception. The HHCA was created by Congress. The focus of the program, the emphasis on rural homesteading, and the setting aside of public lands for the HHCA were determined by the federal government.

The Territory of Hawaii, including the HHCA, was under the direct jurisdiction of the United States until statehood. The Congress and Departments of Justice and the Interior retained trust responsibilities over the HHCA through provisions in the Admission Act of 1959. These trust responsibilities remain in effect today. The federal government must not ignore its role in this matter.

The draft report includes a list of well-known problems. Hawaii continued to address these problems without diverting limited funds from direct services to native Hawaiians. Ignoring the federal government's and the level of resources required to resolve these problems is a major deficiency of the draft report.

In essence, the draft report as it exists will have a serious negative impact on the native Hawaiian beneficiary group, the program, and the general community. It will result in greater misunderstanding and a deterioration of community and legislative support which has taken 60 years to build.

The federal and state government must pursue the identification, analysis, and resolution of these problems in a cooperative manner, with full recognition of the role and responsibility of each entity throughout the 60-year history of the HHCA. The recently-created Federal-State Task Force on the HHCA provides a timely and appropriate opportunity to achieve this. The task force has a broad mandate and is composed of federal, state, and community representatives.

I propose that the responsibility for developing a final independent study on the HHCA be transferred to this task force. In other words, the task force would continue the work of the Office of the Inspector General in developing a complete final report, comprehensive in scope, and with detailed recommendations for action.

Areas which may be examined by the task force which are not addressed in the existing draft report include recommended revisions to the HHCA, a clear definition of the purpose of the HHCA with a proper blend of powers and functions, clarification of the federal government's role and responsibilities, alternative methods of funding, and detailed recommendations to address problems.

The draft report can serve as a starting point for the task force. The Office of the Inspector General would retain its functions in terms of assisting the task force in developing a final report and in monitoring its implementation to provide periodic reports to Congress. Hawaii stands committed and prepared to provide resource persons and assistance for such an endeavor.

My administration has made significant commitments to the DHHL in terms of financial resources and overall assistance. More than $40 million in state funds have been funneled into the DHHL in the past six years. Over 1,300 homes have been constructed during this period, which nearly equals the total number of homes constructed in the previous 54 years.

The DHHL agricultural program has been improved through water development, increased loan limits and expanded loan purposes, and technical assistance. Progress is being made by homestead farmers and this trend is expected to continue. The DHHL is making negotiated general leases available to native Hawaiians to increase opportunities for business development and job creation, as well as making its land base and resources more accessible to native Hawaiians. The new DHHL economic development program will provide business assistance and small business loans to support this effort.

I believe in the Department of Interior's sincerity about making a contribution to the advancement of the native Hawaiian beneficiary group. I look forward to our joint commitment to this effort. Your comments on my proposal would be appreciated.

With warm personal regards, I remain,

Yours very truly,

(signed)
George R. Ariyoshi

Enclosure

B. COMMENTS SUBMITTED BY GOVERNOR ARIYOSHI

Overall Comments

Purpose of the Hawaiian Homes Commission Act

The draft report */ does not discuss the Hawaiian Homes Commission Act (HHCA) itself. It does not identify areas of the Act for revision and improvement. Created by the U.S. Congress in 1921, implemented by the Territory of Hawaii under U.S. government jurisdiction for 38 years, implemented by the State of Hawaii for 22 years under a compact with the U.S. Government, the HHCA has remained essentially unchanged during this entire period.

The intent and purpose of the HHCA is not clear. The concept of native Hawaiian "rehabilitation" is vague. A contemporary mix of statutory powers and functions is lacking. As a consequence, it is difficult to evaluate the performance and results of the Department of Hawaiian Home Lands (DHHL). The HHCA focuses on the land base rather than the changing needs of native Hawaiians and methods to address these needs.

Statutory Provisions

A Congressional Committee Report at the time of the HHCA's passage lists these principle objectives:

- The Hawaiian must be placed on the land to insure his rehabilitation;
- Alienation of the land must be made impossible;
- Accessible water in adequate amounts must be provided for all tracts; and
- The Hawaiian must be financially aided until his farming operations are well under way.

Experience has demonstrated that land is not the panacea for native Hawaiian advancement. Comprehensive and balanced programs are required to assure success. The HHCA does not address the social, economic, and educational needs of the beneficiary group. Adequate and sustained funding is not provided.

The non-alienation clause makes it impossible for native Hawaiian homestead lessees to secure financing without DHHL's continuous support in the form of direct loans and loan guarantees. DHHL financing is, and will continue to be, limited unless new sources and methods are identified and made available. A significant share of the equity created by the lessee cannot be released until the lessee surrenders the lease or passes away. Further, the non-alienation clause and the inability to leverage other funds create a general disincentive for land improvement. Native Hawaiian homesteaders are unable to pass on leases and improvements to non-native Hawaiian direct heirs.

The HHCA exclusion of sugar cane lands, forest reserves, and the remote location of lands results in a land base isolated from population centers, often in dry areas with poor soil conditions. Cost of developing water sources and distribution systems is prohibitive. Funds for water planning, design, and construction are not readily available.

The provision of land, water, and financing for farmers is not adequate to ensure success. Technical assistance in farm production and business management is required. Remote DHHL farming areas face transportation and marketing problems

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*/ All references in this appendix to the "draft report" refer to the Inspector General's draft report, and not to the Draft Report of the Native Hawaiians Study Commission.

and lack a full complement of agricultural support services.

DHHL Land Base Serves Two Purposes

The DHHL land base is used to develop native Hawaiian homesteads and to generate revenues for administration and other costs. These conflicting purposes for the land have been a continuous source of confusion and controversy. Expanded homestead programs experienced since 1975 create additional demands for staff to provide services and maintain quality standards. Planning, design, and construction of homestead improvements are largely dependent on State funds. It has been suggested that DHHL allocate raw land without services or improvements. However, experience has shown that a balanced program of services and improvements is required. DHHL is caught in a continual bind--it cannot develop homestead improvements fast enough to use large tracts of land and it needs to use the same land base to generate revenues for expanded services.

Federal Role Omitted

The draft report introduction states that the purpose of the investigation was:

> ...to determine if the Department of the Interior has adequately executed its trust responsibilities for programs and activities of the Hawaiian Homes Commission as provided by the Hawaiian Homes Commission Act, 1920, and the Hawaii Admission Act of 1959. (page 1)

The draft report does not attempt to define federal responsibilities, nor does it include an evaluation of the performance of the federal government in its trustee capacity. This is a serious deficiency of the draft report.

The federal government has played an active role throughout the history of the HHCA. The U.S. Congress created the HHCA. The federal government had jurisdiction over its implementation when Hawaii was a Territory and retained trust responsibilities outlined in the HHCA and Admission Act that are still in effect.

The basis for interpreting the U.S. Department of the Interior (USDI) role as "ministerial" in a 1972 memorandum of DHHL is not clarified. The draft report does not discuss whether this passive role is still considered adequate or whether the federal government's trustee responsibilities are more extensive in scope and active in nature.

The draft report describes specific actions by the federal government that are questionable without recommending corrective actions. This refers to the USDI approval of HHCA land exchanges and the illegal use of 1,356 acres at Lualualei, Oahu, by the U.S. Navy.

Alternative Funding Sources Not Explored

The draft report contains no substantive and detailed recommendations on alternative funding sources, including federal funds, that may be channeled to DHHL. It is clear that many of the problems faced by the DHHL and documented in the draft report are related to the lack of funds for site improvements, construction, financing, programs, and operations.

DHHL has made significant strides under the present State Administration because of a substantial infusion of State funds. DHHL's ability to continue in this positive direction has been reduced by the 1978 State Constitution limit on State spending, impact of current economic conditions on State and DHHL revenues, and inflation. The omission of the federal government's role in providing funds to DHHL is a serious concern. As far as can be determined, federal funds have never been allocated to the DHHL in the 60 year history of the HHCA.

Draft Report Findings Misleading

Draft report findings leave the impression that the problems can be resolved simply. Recommendations in the draft report are so general as to be meaningless and not useful in terms of taking corrective action. The exact scope of work required and costs are not outlined. Many of the detailed comments that follow are intended to clarify the complex and difficult nature of these problems and needs.

The draft report in its present form is deficient and incomplete, does not fulfill its stated purpose, and will not result in the fundamental and far-reaching improvements needed. The federal government must acknowledge its proper role with respect to the HHCA and DHHL.

Detailed Comments

Land Status

1. Land Inventory

Finding: The draft report cites the lack of descriptions of "available lands" as a problem including the lack of a complete and accurate land inventory (page 13).

Comment: The land inventory problem is complex, due in part to Congressional withdrawals, land exchanges, Executive Orders, and vague descriptions in the HHCA. All of these problems were noted in the report (pp. 15-29).

Original maps used by USDI in designating "available lands" in the 1920's would be a useful reference point for development of a complete and accurate inventory. The draft report does not contain specific recommendations for USDI to pursue in this effort.

Without adequate original reference maps, background research required prior to actual surveying is exhaustive and costly. Presently, this research involves examining each parcel in terms of HHCA provisions, the ahupua'a (land division extending from mountains to the sea) within which it exists, deducting sugar and forest lands, etc., in accordance with Section 203 of the HHCA. Reliance on the validity of existing documents has been necessary. This process is lengthy and can lead to inaccuracies.

Differences in acreages among various DHHL sources are, in part, accounted for in that these sources each reflect the most recent information available. There are differences due to poor descriptions in the HHCA. As lands are developed, more accurate descriptions are produced, generally on a case by case basis. As parcels are brought into use, surveyed, and developed, reports are improved and updated. Given existing staff and resources, DHHL has used this method of addressing the 60-year old problem concerning lack of an adequate land inventory.

Approximately 40% of the DHHL lands have not been surveyed. These lands generally have not been those best suited for homestead or leasing purposes. It is difficult to justify the high survey expense when specific uses for these lands are not yet identified.

2. Land Withdrawals

Finding: There needs to be an aggressive and accelerated approach to resolve the issue of home lands which have been withdrawn for public use (page 22).

Comment: A total review will be required to determine policy and procedures. The matter of airports on DHHL lands is in the process of being resolved. It is clear that airport use is not in keeping with the purposes of the HHCA.

The question of schools and parks is not so easily answered in that these uses are part of an overall community in which homesteaders reside. Another policy or approach may be required. One possible impact is that other agencies will refuse to maintain parks or school properties without clear authority to occupy the land. This raises several questions which must be given serious consideration including the soundness of a policy to move into the area of maintenance of facilities which may or may not directly benefit homesteaders. With limited resources and manpower, focusing on direct services to beneficiaries is more prudent. DHHL does not have the resources or manpower to maintain these facilities.

Other land uses such as game reserves, forests, and conservation areas may require yet another policy or approach. The extent and type of uses of these areas by native Hawaiians are not documented. It is clear that the issue of maintenance and management of these lands by other agencies may result in additional costs to DHHL. DHHL lacks sufficient resources and manpower to adequately carry out these responsibilities or functions.

It should be noted that of the 13,601 acres in Governor's Executive Orders, one of these game reserve lands encompasses 81.8 percent of the total.

Prior to proceeding with any land exchange, a clear understanding of DHHL land values must be determined in terms of resources present on the land and potentials for future land development. Land exchanges are based on a value for value exchange. It is imperative that DHHL have thorough knowledge of its own lands as well as lands which are being sought from other parties. Technical studies will be undertaken within the next two years to provide such information.

Resolution of Governor's Executive Orders is not unilateral on the part of the DHHL. If funds are involved for compensation, legislative appropriations may be required. If land exchanges are considered as a method of compensation, the Department of Land and Natural Resources and sometimes a third party are necessary to consummate an exchange.

This negotiation process requires agreement on appraisal methods, land values, and money. Resolution may involve arbitration or litigation.

Of course, USDI approval of the land exchanges will be required.

3. Past Land Exchanges

Finding: The propriety of three of the seven exchanges is questionable as the provisions of the Act (HHCA) apparently are not compiled with (page 28).

Comment: Note that USDI approved each land exchange. USDI and DHHL share responsibility in this area and must work together to resolve this matter. The draft report raised questions, but does not recommend corrective action.

4. Corrections to Draft Report Information

In the table on page 15, in the fourth column under "Congressional additions" the 402 acres listed on Molokai should be on Kauai; -0- would be the correct figure for Molokai. These changes affect the last column, "Adjusted Act Total." Kauai's total should be 22,948; Molokai's total should read 34,980.*/

In the table on page 18, the correct Akinaka Study Acreage for Hawaii; Kamoku-Kapulena should be 3,509 rather than 4,725 which would adjust the acreage difference from 275 to 1,491. The 4,725 acres as it reads in the draft report included 1,216 acres for a land exchange that should not have been included here.*/

In addition, a last example should be included in the following manner on this table:

Island:	Kauai
Area:	Moloaa
Acre Per Act:	2,000
Akinaka Study Acreage:	316
Differences:	1,684

On page 19, number 2., "The Akinaka Study did not include...," the figure should read 699 acres, not 670 as stated.*/

Program Accomplishments

1. Background

Finding: 1975 DHHL General Plan goals are not being achieved (page 31).

Comment: The DHHL General Plan is a policy document that indicates general directions to be pursued. The General Plan is further refined by Development Plans, detailed design and engineering plans, and Program Plans. Implementation is tied to several factors, including the availability of funds. The General Plan reflects the favorable economic conditions of the early 1970's. It does not reflect the 1978 State spending limit and its impact on State allocations of General Obligation Bond funds to DHHL, the impact of inflation or the reduction in the rate of revenue increases to the State and DHHL due to the sluggish economic conditions.

DHHL recognizes the need to re-examine the General Plan based on new information, projections, and recent amendments to the HHCA. Work on technical studies to support this effort is scheduled within the next two years.

At the time this audit was being conducted, five Development Plans were in process for the areas of Kawaihae and Puukapu (Hawaii), Kalamaula (Molokai), Kula (Maui), and Nanakuli (Oahu). Development Plans identify the highest and best uses for DHHL lands, total costs, and phases of development. These documents are used to justify requests for capital improvement project funds from the State legislature, as well as for internal planning and management purposes.

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*/ [Inspector General's] Report corrected.

The draft report estimates that $600 million will be required to satisfy the present waiting list of 7,500. This total cost is probably underestimated. It does not include the cost for planning, design, and detailed engineering. It does not include the cost for major infrastructural improvements, such as water source development, required to open up new areas for homesteading purposes. The draft report does not mention any federal role in assisting the DHHL to finance these costs. Obviously, a reliance on State funds and DHHL's ability to generate revenues from its land base are not sufficient.

2. Housing Programs

a. Finding: Determine whether it is necessary to provide fully improved residential lots to the applicant. Alternatives to consider are reductions in the extent of improvements provided and/or a requirement that applicants pay for certain improvements (page 42).

Comment: With a waiting list of 7,500 native Hawaiians, it would be a simple task to subdivide DHHL's lands and allocate these raw lands to all. This approach to "solving" native Hawaiian problems would be irresponsible and detrimental to the beneficiary group.

DHHL follows a deliberate practice of assuring that residential and agricultural lots and improvements meet County standards, fully cognizant of the tradeoffs involved in terms of higher costs and constraints on DHHL's ability to satisfy the waiting lists. This course of action is followed for several reasons, which the draft report did not cover:

- It allows DHHL to dedicate certain improvements to the County for repair and maintenance;

- This allows homesteaders to obtain homeowner's and other forms of insurance, health and safety services such as fire protection;

- Depending on the source of financing, certain minimum standards must be met. Loan guarantees through the Farmers Home Administration, for example, are available if DHHL meets building standards that are more restrictive than County standards.

- If DHHL had an independent source of financing, residential and agricultural leases could be awarded without meeting County standards. However, DHHL would be responsible for infrastructure maintenance and repair, providing insurance, and health and safety services. Native Hawaiians would have difficulty securing loans and services. In most cases, the native Hawaiian beneficiary would suffer.

The draft report failed to examine these issues in relation to the tradeoffs involved and the full impacts of their recommendations. It is likely that draft report recommendations will provide marginal benefits. The key concern is the need for additional funding from federal agencies.

DHHL has discussed the need for a comprehensive study of the native

Hawaiian housing market, types of housing units desired and affordable to this market, alternative methods of financing, alternative methods of reducing costs, passing certain improvement costs to the applicant (possibly on ability to pay basis), and an assessment of the impact on current methods of appraising homes at the time of surrender or death with no qualified/interested heirs. DHHL does not have sufficient funds to cover this cost at present.

b. Finding: Determine if alternatives to direct loans are feasible such as some type of guaranteed subsidized loan program using commercial funding sources (page 42).

Comment: DHHL recognizes the need to identify and pursue alternative methods of financing. DHHL currently provides direct loans and loan guarantees. Public program funds are very limited. The situation is not likely to improve. Informal discussions with commercial funding sources over the past year have not been successful. Major concerns raised are the non-alienation lease provisions and closed native Hawaiian market. It is agreed that this area must be examined further. Other alternatives may exist and need to be explored and developed. Certain options may be available to select segments of the native Hawaiian market. A complete study of sufficient scope and depth is necessary and costly.

3. Farm and Ranch Homesteading Programs

a. Finding: There are many reasons why the native Hawaiian farming and ranching program has not progressed rapidly (page 35).

Comment: The discussion of farming and ranching homesteading program in the draft report demonstrates a general lack of understanding of the dynamics of agriculture in Hawaii. Simple and incomplete indicators of success are used. Agriculture in Hawaii, primarily in the form of family-run operations, is constantly in a state of flux and is highly sensitive to market and general economic conditions. Corporate agribusiness on the mainland is highly mechanized, located on large tracts of land, enjoy the benefits of economies-of-scale, and are supported by a wide range of governmental support services including price supports.

Native Hawaiian homestead farmers and ranchers and DHHL's program are affected by many factors which are beyond direct control. There are risks involved in any business venture. The native Hawaiian lessee, of course, assumes responsibility for decisions made in the normal course of business operations.

The list of eight reasons cited on pp. 35-36 are not complete. Other factors include:

- Weather conditions such as severe flooding and drought experience over the past three years by native Hawaiian lessees in Hilo and Puukapu.
- A small local market and competition from other Hawaii farmers and ranchers, mainland and foreign operators. Panaewa farmers are experiencing a difficult marketing problem for guavas.
- The absence of economies-of-scale, high labor costs, and high per unit production costs.
- The lack of agricultural support services in certain locations such as research and experimental facilities, private credit, monitoring of disease and pest problems.

- Distribution and marketing problems such as poor air and barge service, distance to market.

The draft report is based on a rather narrow perspective. Over the 60 year history of the HHCA, farming and ranching has been a priority concern. The draft report focuses on recent events which in many ways do not reflect a long-term trend. Current economic conditions, for example, have affected native Hawaiian lessees (as well as other farmers and ranchers). Certain crops are seasonal in nature, therefore, site visitations may have been misleading. Big Island [i.e., island of Hawaii] lessees are adjusting to the impact of severe weather problems.

DHHL views the farming and ranching homestead programs as an investment in native Hawaiians who make significant contributions to the economy of Hawaii. DHHL plays a supportive and advisory role; DHHL will not dictate what to grow, when and how. Each native Hawaiian farmer and rancher makes the final decision.

DHHL has actively pursued measures which are consistent with its proper role, which will support native Hawaiian farmers and ranchers in their endeavors. Farm agents and technical assistance are provided, rules have been promulgated to clearly define applicant qualifications and farm/ranch plan requirements. Recently, DHHL sought and received authority to increase loan limits and expand purposes for loans, to allow a residence on an agricultural lot, and to provide aquaculture homestead leases. DHHL has connected Waimea farmers to the State Lalamilo Irrigation System, has encouraged lessees to transfer lots to more suitable locations, expanded the definition of agriculture to include poultry and livestock (pigs), and is investigating potentials for DHHL agricultural loan guarantees with other Federal and State sources.

These efforts have demonstrated DHHL's commitment to agriculture. Many native Hawaiian agricultural lessees have responded positively by increasing acreage under cultivation, increasing levels of production, examining new products and markets. Many young native Hawaiians are expressing a strong commitment to agriculture. These trends are expected to continue and add to the momentum. DHHL must be prepared to respond.

b. Finding: Over 60% of the farm tracts are not in full cultivation, including 42% that are not under any cultivation (page 35).

Comment: These figures reflect the number of farm leases, not the number of acres. Most leases are not under full cultivation, however, most are under some cultivation. Table [75] shows information compiled for the 1981 District Manager Reports. It is a more accurate description of the farming activity. [Table 75 appears at the end of this chapter]. DHHL is focusing more attention on the problems and needs at Hoolehua, Molokai, that impede farm production. This is discussed in another section.

4. Molokai Farm Problems

Finding: Farming can be a success on Molokai, but there are many problems pertaining to homestead lands that will have to be overcome before homesteaders can achieve success (pp. 38-40).

Comment: Other problems should be added to the eight listed, including, lack of research and experiment facilities on the island, inadequate water to supply the entire homestead farm area and high cost to link system to new source(s) of water, lack of farming expertise, and inability of some homesteaders to farm due to age and health conditions. Major DHHL farm initiatives were outlined in a previous section. In addition, certain positive actions are taking place on Molokai:

- DHHL will initiate a farm development planning effort to compile and analyze data on land characteristics, lessee demographic profiles, infrastructure, water, and marketing and distribution problems and needs. This will form the basis for future action.

- The Molokai Electric Company will pay for cuttings of homestead biomass (e.g., trees, shrubs, grass). Early reports indicate that biomass may realize higher returns than previous pineapple agreements. Concerns that need to be examined are the long-term impact of repeated cuttings on the soil, productive use of fertile agricultural lands, and dependence on one product and one outlet.

- The DHHL technical assistance project has made significant impact on farming activity on Molokai. The project provides on-the-farm consultation, workshops, disease and tissue analysis, and variety trials. The project was recently extended for two more years.

- The new Maui Community College Molokai Farm Project which will offer college coursework, workshops, fieldtrips, and hands-on field experiences will complement the DHHL technical assistance project.

5. Subleasing of Ranch Land

Finding: The issue of whether native Hawaiian ranchers can award grazing permits to non-native Hawaiians needs to be resolved (page 42).

Comment: The subleasing of ranch land raises basic issues that relate to homestead uses whether residential, farming, ranching, or aquaculture. Is the use of DHHL lands by native Hawaiians to be considered a right or a privilege? If it is a native Hawaiian right, it is questionable whether the DHHL should place unreasonable restrictions on use of the land. The DHHL should not prevent native Hawaiians from using the land to assure his advancement, for example, by seeking third party investors. This may require that the non-alienation clause be re-examined. HHCA provisions should not hamper efforts by native Hawaiians to secure non-governmental assistance, provide workers' quarters on the land, and taking the initiative to operate in the free enterprise system. Unfortunately, there are cases where HHCA provisions have been a deterrent, rather than a positive factor, to providing native Hawaiians with individual control and responsibility over their future.

In the case of sublease ranching agreements, several factors need to be considered. Some lessees have been ranchers for many years. Due to age, these lessees are not fully productive on their own; their children are not interested in continuing the ranch. It is unreasonable to evict these lessees after many years of developing and operating full-scale ranches.

Other lessees have invested heavily into ranching and have failed because of a lack of experience or the inability to leverage needed capital. It is questionable whether eviction from the land will lead to a positive gain for any party involved. Other solutions can be explored to support the native Hawaiians' commitment to, and interest in, ranching.

Various extenuating circumstances need to be understood before lease provisions are enforced. This may be appropriate in some cases, not in others. A flexible approach is required that offers opportunities for success and recognition of lessee commitment and initiative.

Financial Management and Reporting

1. Cash Management

Finding: DHHL has not maximized income by analyzing current cash needs and investing all cash excess to current needs into revenue producing investments (page 43).

Comment: DHHL is examining the role of other central staff agencies to determine whether external systems of control can prevent this situation from occurring. It is acknowledged that DHHL is responsible for management of its available cash. An external control system would be helpful, especially in a situation of high staff turnover.

DHHL cash investment, generally before and after the period included in the draft report, have consistently ranged between 75 and 85 percent of available cash. During the period covered in the draft report audit, DHHL experienced high staff turnover. Vacant positions existed.

Hiring and staff training has received high priority. Serious efforts have been made in this area and a proper level of investment achieved since completion of the draft report.

Cash management is also influenced by the nature of various funds involved. Certain funds are predictable in terms of income and disbursements. Others are subject to large periodic fluctuations. Estimating available cash for investment purposes can be very difficult.

2. Financial Statements

Finding: Complete financial statements are not prepared, therefore the overall financial condition of DHHL is not readily apparent. Inappropriate management decisions may have been made (page 43).

Comment: DHHL recognizes that improvements are needed in this area. Reconciliation of accounts is being pursued. DHHL will also explore the possibility of additional assistance from the State Department of Accounting and General Services (DAGS) and from the Department of Budget and Finance (DB&F). Further, consultant services may be required to determine a feasible method of initiating proper accounting systems equipment so that complete financial statements can be developed.

3. Accounting System is Not Auditable

Finding: The main deficiency in the accounting system is that key reconciliations are not performed (page 47).

Comment: An ongoing effort continues in this area. The reconciliation process may require another one and a half to two years to complete.

4. Accuracy of Annual Report Data

Finding: DHHL needs to improve the accuracy of data included in its annual report (page 48).

Comment: The annual reports reflect the most current and accurate information available. Changes will continue to be made as progress is made.

A related concern is the need for a broad-based management information system which can accommodate fiscal, accounting, loan, applicant and lessee lists, land inventory, beneficiary demographic data, and leasing activities. The first step would include retaining a consultant's services to assess DHHL's data and analysis needs and to recommend a feasible management information system. The system is needed for daily operations, periodic reporting. Such a system would provide more timely data. As the accuracy of data input increases, the system will reflect this.

Eligibility Lists

a. Finding: DHHL has not notified applicants who filed since June 1981 as to whether their applications have been approved (page 53).

Comment: Letters of notification to each applicant not previously notified will be sent as the process of verification of native Hawaiian ancestry is completed. This process was delayed at the time of the draft report audit because DHHL applicant data base information was being transferred from one system to a word processor. DHHL is currently making positive progress in terms of resolving this problem.

b. Finding: There is no system of application accountability numbers whereby a single series of numbers is used and a number is assigned once to an application (page 53).

Comment: A new application procedure is being established which will satisfy this concern. Internal procedures need to be finalized before implementation.

c. Finding: DHHL does not have current addresses for a large number of applicants and attempts to contact the individuals have not been successful (page 53).

Comment: A key problem has been maintaining updated addresses for DHHL applicants. Rules provide that each applicant be contacted every two years. These biennium contacts and periodic area screenings help to identify applicants whose mail cannot be delivered because of a change of address.

DHHL maintains a mail return file for followup by staff. Lack of manpower has been a problem. The current plan is to conduct segmented screenings to comply with the biennium contact requirement and keep the mail return followup manageable. For example a segmented system of contacts would result in 300 mailings each month, rather than 7,500 mailings at one time every two years.

d. Finding: The Hawaiian Homes Commission should establish policies and procedures to drop applicants from the eligibility lists or penalize them after reasonable efforts to verify whereabouts and confirm interest are unsuccessful (pp. 56-57).

Comment: Interest and commitment are at a high level at the time of application. This decreases as the length of time on the waiting list increases. When leases are made available, the applicant is asked to decide interest within 30 days after waiting for several years. This is a major decision involving a large financial investment and possibly relocation. The current procedure of placing applicants on an inactive status provides DHHL with opportunities to identify the effective (i.e., interested and committed) waiting list.

This procedure was authorized in 1977, became operational in 1980, and provides for an inactive list. At the present time, DHHL has no desire to drop applicants entirely from eligibility lists.

e. Finding: Question as to whether 1952 list of Waimea ranch applicants received proper notification when the list was cancelled on May 14, 1956 (pp. 55-56).

Comment: DHHL is aware of this issue. Staff is reviewing historical data to determine a final resolution.

Leasing Activities

1. Revocable Permits

Finding: Revocable permits continued when general leases would be more appropriate (page 61).

Comment: Development Plans need to be completed before commitments are made to any general leasing activities. One of the revocable permits cited will be affected by the Kawaihae Development Plan now in process. Pending completion of this Development Plan, a general lease may be issued if the proper zoning is in place.

Plans for homestead use of the other revocable permit parcel may preclude issuing a general lease.

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REVIEW OF HAWAIIAN HOMES COMMISSION PROGRAMS

TABLES

TABLE 65

ACREAGE AND TYPE MANAGED BY DHHL AS OF JUNE 30, 1981

		Acres
Homestead leases:		
Residential	1,330	
Farms	7,619	
Ranches	17,113	26,062
Community pastures		13,706
General leases:		
Administered by DHHL	75,739	
Administered by Dept. of Land and Natural Resources	16,500	92,239
Licenses		1,124
Revocable permits		15,844
Conservation lands		17,690
Governor's Executive Orders		12,245
Unencumbered lands		10,805
Right-of-entries		9
Total		189,724

TABLE 66

FUNDS AND SOURCES OF REVENUES--DHHL

Revolving funds	Funding source
Home Loan Fund ($5 million ceiling)	30 percent monies 1/
Additional Receipts Loan Fund	30 percent monies 1/
Replacement Loan Fund	General obligations bonds
General Home Loan Fund	General obligations bonds
Repair Loan Fund	General obligations bonds
Farm Loan Fund	General obligations bonds
Operating Fund	Pasture, water and misc. fees and interest income
Special funds	
Education Fund	30 percent monies 1/
Development Fund	30 percent monies 1/
Native Hawaiian Rehabilitation Fund	30 percent monies 1/
Loan Interest Fund 2/	Interest income
Administration Account	General lease revenues
Borrowed money	Hawaiian Housing Authority and The Model Cities Program
Trust Fund	Gifts for which no purpose is specified
Loan Guarantee Fund	State general revenues

1/ 30 percent of receipts from leasing of sugar cane lands and water licensees (State lands receipts).

2/ Repository fund established in 1979 for interest monies pending transfer to other funds.

TABLE 67

CHANGES IN LAND INVENTORY--HAWAIIAN HOME LANDS

	Acreage					
		Congressional				
Island	Original Act	Withdrawals	Additions	Given in Exchange	Received in Exchange	Adjusted Act Total
Hawaii	107,300	53	17	1,244	6,488	112,508
Kauai	22,500		402	26	20	22,896
Maui	31,000		12		61	31,073
Molokai	33,700	219		1,061		32,420
Oahu	9,000	—	133	690	355	8,798
Total	203,500	272	564	3,021	6,924	207,695

TABLE 68

COMPARISON OF LAND INVENTORY FIGURES

	Acreage		
Island	Act as Amended by Congress 1/	1972 Akinaka Study	1981 Annual Report
Hawaii	112,508	110,971	110,575
Kauai	22,494	17,967	18,689
Maui	31,073	29,076	29,005
Molokai	32,822	26,795	26,210
Oahu	8,798	5,069	5,245
Total	207,695	189,878	189,724

1/ Includes seven land exchanges approved by the Secretary of the Interior.

TABLE 69

COMPARISON OF ACREAGE DESCRIPTIONS

Island	Area	Acreage Per Act	Akinaka Study Acreage	Acreage Difference
Molokai	Kalaupapa	5,000	1,247	3,753
Maui	Kahikinui	25,000	22,891	2,109
Hawaii	Nienie	7,350	7,169	181
Hawaii	Kamoku-Kapulena	5,000	3,509 1/	1,491
Hawaii	Pauahi	750	555	195

1/ Includes 1,216 acres which were obtained through an exchange.

TABLE 70

COMPARISON OF DHHL OBJECTIVES AND RESULTS

Description	10 Years Objective	6 Year Accomplishments
Housing for new homesteaders (houses)	2,600	669
Allocate agricultural lands to native Hawaiians (acres)	40,000	793
Reduce the acreage of lands used for income purposes (acres)	20,000 Decrease	5,843 Increase
Maximize income through more effective land management	No set Amount	51.6% Increase

TABLE 71

SUMMARY OF ELIGIBLE HOMSTEAD APPLICANTS

Island	Residential	Agriculture	Ranch	Total
Hawaii	1,104	375	247	1,726
Kauai	391	77	41	509
Maui	470	21	14	505
Molokai	277	114	20	411
Oahu	4,066	8	0	4,074
Total	6,308	595	322	7,225

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TABLE 72

HOMESTEAD APPLICANTS BY YEARS ON ELIGIBILITY LISTS

Years on Eligibility Lists	Type of Application			
	Residential	Farm	Agricultural	Total
30 or more	54	0	2	56
25 to 29	134	1	0	135
20 to 24	197	2	3	202
15 to 19	843	77	34	954
10 to 14	713	57	19	789
5 to 9	1,506	55	79	1,640
0 to 4	2,861	130	458	3,449
Total	6,308	322	595	7,225

TABLE 73

COMPARISON OF DHHL ANNUAL REPORT AND LISTING OF HOMESTEADERS, BY ISLAND

Island	Number of Homesteaders		
	1981 Annual Report	Listing As of 6/30/81	Difference
Hawaii	726	762	36
Molokai	380	601	221
Maui	89	90	1
Oahu	1,649	1,610	(39)
Kauai	190	136	(54)
Total	3,034	3,199	165

TABLE 74
COMPARISON OF DHHL ANNUAL REPORT AND LISTING OF HOMESTEADERS, BY TYPE

Type	Number of Homesteaders		
	1981 Annual Report	Listing As of 6/30/81	Difference
Residential	2,618	2,703	85
Farm	347	421	74
Ranch	69	75	6
Total	3,034	3,199	165

TABLE 75

DHHL FARMLANDS CULTIVATED/CLEARED

Area	Total Acres	Acres Cultivated/Cleared	
		#	%
Panaewa	641	407	63.5
Waimea	285	187	65.6
Hoolehua	6,355	900	14.2
Total	7,281	1,494	20.5

Federal Responses To The Unique Needs Of Native Hawaiians

The preceding two chapters have analyzed and reviewed two suggested federal responses to the unique needs of native Hawaiians. The chapter entitled "Existing Law, Native Hawaiians, and Compensation" concludes that the response of compensation for any possible loss of land or sovereignty is not available under present law. The "Review of Hawaiian Homes Commission Programs" reviews the Hawaiian Home Lands program, including ways to ensure better administration of the program. This chapter sets forth other federal responses that are available or being undertaken.

A. IDENTIFICATION OF FEDERAL PROGRAMS FOR WHICH NATIVE HAWAIIANS MAY BE ELIGIBLE

The Federal Government sponsors a vast array of programs administered through a large number of agencies. Five federal programs specifically assist native Hawaiians. 1/ These are: Title VII of the Native Americans Program Act; 2/ Title III of the Comprehensive Employment and Training Act; 3/ the American Indian Religious Freedoms Act; 4/ the Mental Health Systems Act; 5/ and the Hawaiian Homes Commission Act of 1921. 6/

The section that follows lists a representative sample of existing federal programs that meet some of the needs of native Hawaiians that have been identified in this Report. Information on the majority of the federal programs listed on the following pages (except where otherwise noted) was obtained from the 1982 edition of the Catalog of Federal Domestic Assistance. [The next edition of the Catalog is scheduled to be released on July 1, 1983.] The Catalog is a Government-wide compendium of federal programs, projects, services, and activities that provide assistance or benefits to the American public. It contains financial and non-financial assistance programs administered by departments and establishments of the Federal Government, and is published annually by the Federal Government. As the basic reference source of Federal programs, the primary purpose of the Catalog is to assist users in identifying the programs that meet specific objectives of the potential applicant, and to obtain general information on federal assistance programs.

The following list is not meant to be exhaustive--the Catalog itself contains hundreds of programs that may be of use to individual native Hawaiians. The list is meant to be indicative, however, of the range of Federal Government programs now available that may meet some of the needs of native Hawaiians. The numbers following the program title are the reference numbers used in the Catalog.

Education: Elementary and Secondary

Compensatory Education for the Disadvantaged; Chapter 1 Grants to Local Educational Agencies */

Description of Grant Process: Authorization for Basic Grants are computed for States and counties by multiplying the number of children 5-17 years of age from low-income families by 40 percent of the State's average per pupil expenditure (but not less than 80 percent nor more than 120 percent of the national average). These children include: (1) children in families with incomes below the poverty level (1980 census data but

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*/ Information on this program obtained from the Office of Management and Budget, February 1983.

using the definition of poverty used in compiling the 1970 census); (2) children in families receiving AFDC payments in excess of the poverty level for a non-farm family of four (updated annually); (3) neglected or delinquent children residing in institutions which are not State-operated; and (4) foster children supported with public funds. Authorizations are ratably reduced to the appropriated amount. In addition each county is guaranteed an amount which is not less than 85 percent of the amount received in the previous year.

One-half of the funds appropriated for the basic Chapter 1 program in excess of the amount appropriated for school year 1978-79 will be allocated to the States and counties on the basis of the number of children from families below 50 percent of the median national income for four-person families, as determined by the 1975 Survey of Income and Education. Within States, each local educational agency will receive an amount based on its percentage of the State's basic Chapter 1 allocation.

Definition of Eligibility: Local educational agencies (LEAs) are eligible to receive funds under this program. Individuals must be educationally disadvantaged to receive services. The LEA determines this.

Educationally-Deprived Children--State Administration

(84.012)

Office of Assistant Secretary for Elementary and Secondary Education, Department of Education.

Objectives: To provide financial assistance to State educational agencies to meet the special needs of educationally-deprived children.

Types of Assistance: Formula Grants.

Head Start */

Head Start provides comprehensive developmental services designed to improve the quality of life for children and their families. Intended primarily for preschoolers from low-income families, the program seeks to foster the development of children and to enable them to deal more effectively with both their present environment and later responsibilities in school and community life. Head Start programs emphasize cognitive and language development, socio-economic development, physical and mental health, and parent involvement, to enable each child to develop and function at his or her highest potential. At least ten percent of enrollment opportunities in each State are made available to handicapped children.

Head Start provides a variety of learning experiences that lay the framework for success in elementary school. Head Start children receive comprehensive health services, including immunizations and physical and dental exams and treatment, and hot meals to help meet daily nutritional needs. The program also emphasizes significant involvement of the children's parents in their early childhood development. Technical assistance and training activities are provided to local program staff to enhance the quality and effectiveness of the services offered. Grants to carry out Head Start are awarded to public and private non-profit agencies. Head Start's legislation includes a formula that determines basic State allocations. The two factors in the formula are the relative number of poor children and the number of recipients of Aid to Families with Dependent Children in each State as compared to all States.

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*/ Information on this program obtained from Commissioner Carl Anderson, U.S. Department of Health and Human Services.

In FY 1982 five local Head Start projects were funded in Hawaii. Comprehensive child development services were provided to 11,010 children for a total of $3,190,180 Head Start dollars. Approximately 2,092 staff are employed.

Higher Education: Adult and Vocational Education

Special Services for Disadvantaged Students (84.042)

Office of Assistant Secretary for Postsecondary Education, Department of Education.

Objectives: To identify qualified low-income, first-generation college students or physically-handicapped students, who are enrolled or accepted for enrollment by institutions that are recipients of grants, and to provide supportive services for these students who are pursuing programs of postsecondary education. (Funds may be used to provide eligible project participants personal and academic counseling, career guidance, tutoring, instruction in reading, study skills, and mathematics, and to facilitate the entrance of project participants into graduate and professional programs.)

Types of Assistance: Project Grants.

Adult Education--State-Administered Program (84.002)

Office of Assistant Secretary for Vocational and Adult Education, Department of Education.

Objectives: To expand educational opportunities and to encourage the establishment of programs for adult education that will enable educationally-disadvantaged adults to acquire basic skills necessary to function in society, to complete secondary school, and to profit from employment-related training. (Special emphasis is given to programs of instruction in computational skills and in speaking, reading or writing English for those adults who are least educated and most in need of educational assistance.)

Types of Assistance: Formula Grants. (For FY 83, program proposed for funding as part of a consolidated block grant program.)

Vocational Education--Special Programs for the Disadvantaged (84.052)

Office of Assistant Secretary for Vocational and Adult Education, Department of Education.

Objectives: To provide special vocational education programs for persons who have academic, or economic, handicaps and who require special services and assistance in order to enable them to succeed in vocational educational programs.

Types of Assistance: Formula Grants. (Note: This program is proposed for funding as part of a consolidated block grant program.)

Business: Economic Development */

Economic Opportunity Loans for Small Businesses (59.003)

Small Business Administration.

Objectives: To provide loans up to $100,000 with maximum maturity of 15 years, to small businesses owned by

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*/ Native-born Hawaiians are considered minorities and are eligible for all minority programs as socially-disadvantaged. However, to receive minority assistance, they must also demonstrate that they are economically disadvantaged. The Small Business Administration has regional offices and a district office is located in Honolulu. [Information obtained from the Office of Management and Budget, February 1983.]

low-income or socially or economically disadvantaged persons.

Type of Assistance: Direct Loans; Guaranteed/Insured Loans; Advisory Services and Counseling.

Management Assistance to Small Businesses (59.005)

Small Business Administration.

Objectives: To help the prospective as well as the present small business person improve skills to manage and operate a business.

Types of Assistance: Advisory Services and Counseling; Dissemination of Technical Information; Training.

Minority Business Development--Procurement Assistance (59.006)

Small Business Administration.

Objectives: To insure participation of businesses, which are owned and controlled by disadvantaged persons, in Federal contracting and establishing small manufacturing, service and construction concerns that will become independent and self-sustaining in a normal competitive environment.

Types of Assistance: Provision of Specialized Services (Section 8(a) of Small Business Act--SBA enters into procurement contracts with other Federal Agencies and subcontracts to others the performance of contracts SBA has obtained).

Management and Technical Assistance for Disadvantaged Businessmen (Development Assistance Program) (59.007)

Small Business Administration.

Objectives: To provide management and technical assistance through public or private organizations to existing or potential businesses that are economically or socially disadvantaged or that are located in areas of high concentration of unemployment or are participants in activities authorized by sections 7(i) and 8(a) of the Small Business Act.

Types of Assistance: Project Grants.

Procurement and Technical Assistance to Small Businesses (59.009)

Small Business Administration.

Objectives: To assure small business a fair share of contracts and subcontracts for Federal Government supplies and services and a fair share of property sold by the Government.

Types of Assistance: Provision for Specialized Services.

Small Business Loans (59.012)

Small Business Administration.

Objectives: To aid small businesses owned by low income individuals or located in areas of high unemployment which are unable to obtain financing in the private credit marketplace, including agricultural enterprises.

Types of Assistance: Direct Loans; Guaranteed/Insured Loans (including Immediate Participation Loans).

Minority Business Development--Management and Technical Assistance (11.800)

Minority Business Development Agency, Department of Commerce.

Objectives: To provide management and technical assistance to minority businesses through use of professional management consulting organizations with proven methods of professional assistance; to increase the availability of capital from public and private sources for the formation and expansion of minority businesses; to increase the level of private sector purchases from minority-owned businesses; to increase the participation of minority entrepreneurs in growth sectors of the economy, including high technology industries.

Types of Assistance: Project Grants (e.g., State could get funds to provide services to minority businesses).

Administration for Native Americans, U.S. Department of Health and Human Services */

The Administration for Native Americans (ANA) promotes the social and economic self-sufficiency of American Indians, Alaska Natives, and native Hawaiians by encouraging and sponsoring local strategies in economic and social development. ANA defines self-sufficiency as the level of development at which a Native American community can control and internally generate resources to provide for the needs of its members and meet its own short- and long-range social and economic goals.

ANA programs and policies foster a balanced developmental approach at the community level through three major goals: (1) to develop or strengthen tribal governments, local decision-making, and Native American leadership; (2) to encourage the development of stable, diversified local economies or economic activities that provide jobs, promote economic well-being, and reduce dependency on welfare services; and (3) to support local control and/or access to health and well-being of people and which are essential to a thriving and self-sufficient community.

ANA efforts in Hawaii for fiscal years 1982 and 1983 consist of discretionary financial assistance grants and interagency agreements.

The following grants have been awarded:

- Just over three years ago native Hawaiians on the island of Molokai were given an opportunity to retain agricultural land, provided the land was put to productive use following the phase-out of the pineapple industry on that island. To assist the native Hawaiians to retain their ancestral land the Hikiola Cooperative of Hoolehua was awarded a grant. The ANA grant assistance provided has enabled native Hawaiian products to be marketed competitively; it has improved management, supported effective inventory control of products, and adequate servicing, as well as assured the receipt of technical assistance on modern agricultural techniques. This economic development project will be self-sustaining and will be a major step for the native Hawaiians on Molokai toward social and economic self-sufficiency. Hikiola completed the third year of ANA financial assistance January 31, 1983.

- Alu Like, Inc., has been the principal ANA Hawaiian grantee since 1976 when Hawaiian native organizations first became eligible to receive direct assistance. This statewide grantee has progressed from

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*/ Information on these programs obtained from Commissioner Carl Anderson, U.S. Department of Health and Human Services.

conducting needs assessment and long-range planning to becoming a primary mechanism for social and economic development in the native Hawaiian communities. Alu Like currently administers semi-autonomous multi-service island Centers on Oahu, Molokai, Maui, Lanai, Kauai, and Hawaii. It provides technical assistance to community organizations and individuals on a broad range of social and economic endeavors.

- The Office of Hawaiian Affairs (OHA) is an independent agency of the State executive branch yet given the status of an agency in State government with the authority to work with various levels of government. The purpose of the grant to OHA is to establish community mechanisms for accessing human services, and to establish linkages between Hawaiians and servicing agencies. This human services management effort includes a centralized inventory of available agencies providing services to native Hawaiians as well as the identification of service gaps.

Employment Training

Employment and Training--Indians and Native Americans (17.234)
Employment and Training Administration, Department of Labor.

Objectives: To reduce the economic disadvantages among Indians and others of Native American descent [including native Hawaiians] and to advance the economic and social development of such people in accordance with their goals and life styles. [Funds may be utilized for employment and training programs and services, including institutional training, on-the-job training, public service employment, work experience, youth employment programs, day care, health care, job search, and relocation and transportation allowances designed to aid the beneficiary to obtain and retain employment.]

Types of Assistance: State will receive 3.3 percent of total amount of block grant for this purpose (above the block grant amount).

Housing: Homebuying/Ownership

Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans) (10.410)
Farmers Home Administration, Department of Agriculture.

Objectives: To assist rural families to obtain decent, safe, and sanitary dwellings and related facilities. (Loans may be used: for construction, repair or purchase of housing; to provide necessary and adequate sewage disposal facilities; for water supply for the applicant and his family; for weatherization; to purchase or install essential equipment which upon installation become part of the real estate; and to buy a site on which to place a dwelling for applicant's own use.)

Types of Assistance: Guaranteed/Insured loans.

Interest Reduction--Homes for Lower Income Families (14.105)
Housing, Department of Housing and Urban Development.

Objectives: To make homeownership more readily available to lower income families by providing interest reduction payments on a monthly basis to lenders on behalf of the lower income families. (HUD insures lenders against losses on mortgage loans. These loans may be used to finance the purchase of a new or substantially rehabilitated single-family dwelling or condominium unit approved prior to beginning of construction or beginning of substantial rehabilitation.)

Types of Assistance: Direct Payments for Specified Use; Guaranteed/Insured Loans.

Mortgage Insurance--Homes for Low and Moderate Income Families (14.120)

Housing, Department of Housing and Urban Development.

Objectives: To make homeownership more readily available to families displaced by urban renewal or other government actions as well as other low-income families. (HUD insures lenders against loss on mortgage loans. These loans may be used to finance the purchase of proposed or existing low-cost, one- to four-family housing or the rehabilitation of such housing.)

Types of Assistance: Guaranteed/ Insured Loans.

Low Income Housing--Homeownership Opportunities for Low Income Families (14.147)

Housing, Department of Housing and Urban Development.

Objectives: To provide, through local Public Housing Agencies (PHA's), including Indian Housing Authorities, low-income families with the opportunity for owning their own homes.

Types of Assistance: Direct Payments for Specified Use; Direct Loans.

Housing: Home Improvements and Rental and Cooperative Units

Very-Low Income Housing Repair Loans and Grants (10.417)

Farmers Home Administration, Department of Agriculture.

Objectives: To give very low-income rural homeowners an opportunity to make essential repairs to their homes to make them safe and to remove health hazards to the family or the community.

Types of Assistance: Direct Loans; Project Grants.

Interest Reduction Payments--Rental and Cooperative Housing for Lower Income Families (14.103)

Housing, Department of Housing and Urban Development.

Objectives: To provide good quality rental and cooperative housing for persons of low- and moderate-income by providing interest reduction payments in order to lower their housing costs. (HUD insures lenders against losses on mortgage loans. Insured mortgages may be used to finance the construction or rehabilitation of rental or cooperative detached, semidetached, row, walk-up, or elevator-type structures.)

Types of Assistance: Direct Payments for Specified Use; Guaranteed/Insured Loans.

Mortgage Insurance--Rental Housing for Moderate Income Families (14.135)

Housing, Department of Housing and Urban Development.

Objectives: To provide good quality rental housing within the price range of low and moderate income families. (HUD insures lenders against loss on mortgages. Insured mortgages may be used to finance construction or rehabilitation of detached, semidetached, row, walk-up, or elevator-type rental housing containing 5 or more units.)

Types of Assistance: Guaranteed/ Insured Loans.

Mortgage Insurance--Rental and Cooperative Housing for Low and Moderate Income Families, Market Interest Rate (14.137)

Housing, Department of Housing and Urban Development.

Objectives: To provide good quality rental or cooperative housing within the price range of low- and moderate-income families. (HUD insures lenders against loss on mortgages. Insured mortgages may be used to finance construction or rehabilitation of rental or cooperative detached, semidetached, row, walk-up, or elevator structures, with 5 or more units.)

Types of Assistance: Guaranteed/ Insured Loans.

Rent Supplements--Rental Housing for Lower Income Families (14.14[illegible])

Housing, Department of Housing and Urban Development.

Objectives: To aid lower-income families in obtaining decent, safe, and sanitary housing in private accommodations and to promote economically mixed existing, newly constructed, and substantially and moderately rehabilitated housing. (Provides housing assistance payments to participating private owners and Public Housing Agencies on behalf of eligible tenant to provide decent, safe, and sanitary housing for lower and very low income families at rents they can afford.)

Types of Assistance: Direct Payments for Specified Use.

Housing for the Elderly or Handicapped (14.157)

Housing, Department of Housing and Urban Development.

Objectives: To provide for rental or cooperative housing and related facilities (such as central dining) for the elderly or handicapped. (Direct loans may be used to finance rental or cooperative detached, semidetached, row, walk-up, or elevator-type structure.)

Types of Assistance: Loans to private nonprofit corporations and consumer cooperatives.

Public Housing--Comprehensive Improvement Assistance Program (14.158)

Housing, Department of Housing and Urban Development.

Objectives: To provide annual contributions to improve the physical condition and upgrade the management and operation of existing public housing projects to assure that they continue to be available to serve low-income families.

Types of Assistance: Direct Loans; Project Grants; Direct Payments for Specified use.

Low Income Housing--Assistance Program (14.146)

Housing, Department of Housing and Urban Development.

Objectives: To remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income through an authorized Public Housing Agency.

Types of Assistance: Direct Payments for SPecified Use; Direct Loans.

Rural Self-Help Housing Technical Assistance (10.420)

Farmers Home Administration, Department of Agriculture.

Objectives: To provide financial support for the promotion of a program of technical and supervisory assistance which will aid needy low-income individuals and their families in carrying out mutual self-help efforts in rural areas. (Organizations may use technical assistance funds: to hire the personnel to carry out a program of technical assistance for self-help housing in rural areas; to pay necessary and reasonable office and administrative expenses; to make essential equipment such as power tools available to families participating in self-housing construction; and to pay fees for training self-help group members in construction techniques or for other professional services needed.)

Types of Assistance: Project Grants.

Health

Human Nutrition Information Service (10.375)

Human Nutrition Information Service (HNIS), Department of Agriculture.

Objectives: To provide information relative to research conducted by HNIS on food consumption, food composition, and nutrition education. To provide human nutrition information to government agencies with missions related to nutrition, private industry, consumers, and consumer groups.

Types of Assistance: Dissemination of Technical Information.

Health Services Research and Development--Grants (13.226)

Office of the Assistant Secretary for Health, Public Health Service, Department of Health and Human Services.

Objectives: To support research, development, demonstration and evaluation activities designed to ensure that comprehensive and systematic efforts are made to develop new options for health services delivery and health policy, to test the assumptions on which current policies and delivery practices are based, and to develop the means for monitoring the performance of the health care system. Also to support research for the development of valid and useful information to communities which are implementing Emergency Medical Service Systems. As part of its broad legislative mandate, the National Center for Health Services Research supports research studies in the following categories of concern: Health Promotion and Disease Prevention; Service Delivery for the Disadvantaged; Health Care Cost and Expenditures; Health Insurance, Health Manpower; Planning Regulation; Technology and Computer Science Applications; Quality of Care; Emergency Medical Services; Long-Term Care; and Special Studies.

Types of Assistance: Project Grants.

Special Supplemental Food Program for Women, Infants, and Children (10.557)

Food and Nutrition Service, Department of Agriculture.

Objectives: To supply supplemental nutritious foods and nutrition education as an adjunct to good health care to low income participants identified to be at nutritional risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. (Grants are made to State health or comparable agencies...in order to make supplemental foods available to pregnant, postpartum and breastfeeding women, infants, and children up to five years of age through local public or nonprofit private health or welfare agencies.)

Types of Assistance: Formula Grants.

Health Education

Nutrition Education and Training Program (10.564)

Food and Nutrition Service, Department of Agriculture.

Objectives: To encourage the dissemination of nutrition information to children participating or eligible to participate in the school lunch and related child nutrition programs. (Grants are made to State education agencies to provide for the nutritional training of educational and food service personnel, the food service management training of school food service personnel, and the conduct of nutrition education activities in schools and child care institutions.)

Types of Assistance: Formula Grants.

National Health Promotion Training Network (13.990)

Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, Public Health Service, Department of Health and Human Services.

Objectives: To educate the public about environmental, occupational, societal and behavioral factors that affect health in order that individuals may make informed decisions about health-related behavior. The National Health Promotion Program is a federal focal point for the development, implementation, and coordination of programs that promote good health habits and programs that are designed to prevent disease and disability. (Assistance must be used to satisfy program needs of the National Health Promotion Activities Program, including but not limited to: reaching local human service agencies with training in conducting effective health promotion programs; identifying or developing materials for health promotion programs, such as model curricula for use by universities or community health promotion programs; adding to the scientific data base, especially to fill gaps identified in the "Objectives for the Nation" report; identifying the needs of special population groups--such as Blacks, Hispanics, Asian/Pacific Islander Americans, handicapped and elderly Americans--and finding health promotion programs to meet those special needs; and facilitating health promotion activities at the local level from a central, national base, through education and locally organized activity.) Types of Assistance: Project Grants (Cooperative Agreements).

Social Programs

Administration for Children, Youth and Families--Child Welfare Research and Demonstration (13.608)

Office of Human Development Services, Department of Health and Human Services.

Objectives: To provide financial support for research and demonstration projects in the area of child and family development and welfare. (Grants are for: (1) special research and demonstration projects in the field of child welfare that are of regional or national significance; (2) special projects for the demonstration of new methods or facilities that show promise of substantial contribution to the advancement of child welfare; and (3) projects for the demonstration of the utilization of research in the field of child welfare in order to encourage experimental and special types of welfare services.)

Types of Assistance: Project Grants.

Child Abuse and Neglect Prevention and Treatment (13.628)

Office of Human Development Services, Department of Health and Human Services.

Objectives: To assist State, local, and voluntary agencies and organizations to strengthen their capacities to develop programs that will prevent, identify and treat child abuse and neglect. (Grants or contracts are for: (1) providing technical assistance to public and nonprofit private agencies and organizations; (2) demonstration programs and projects to develop and establish multi-disciplinary training programs; to establish and maintain centers to provide a broad range of activities including parent self-help in order to prevent, identify, and treat child abuse and neglect; State grants are made to assist States in developing, strengthening and carrying out child abuse and neglect prevention and treatment programs; (3) research into the causes, prevention, and treatment of child abuse and neglect; (4) formula grants to States to strengthen State capacities to reduce the incidence of child abuse.)

Types of Assistance: Formula Grants; Project Grants.

Corrections--Research and Evaluation and Policy Formulation

(16.602)

National Institute of Corrections, Department of Justice.

Objectives: To conduct, encourage, and coordinate research relating to corrections, including the causes, prevention, diagnosis, and treatment of criminal offenders. To conduct evaluation programs that study the effectiveness of new approaches, techniques, systems, programs, and devices employed to improve the corrections system. (Provides assistance for upgrading correctional programs, services, and techniques at State and local levels. Services are available to the entire range of correctional agencies, including probation, parole, institutions, jails, and community programs.)

Types of Assistance: Project Grants; Provision of Specialized Services; Dissemination of Technical Information.

Alcohol, Drug Abuse, and Mental Health Administration, Scientific Communications and Public Education

(13.243)

Alcohol, Drug Abuse, and Mental Health Administration, Department of Health and Human Services.

Objectives: To provide the fullest possible dissemination of alcohol, drug abuse, and mental health information through a full-scale program of scientific communications and public information and education activities serving both the professional community and the general public. (No grant funds are provided. Assistance is given in response to the printed and electronic media. Types of public information materials and activities include brochures, fliers, fact sheets, pamphlets and exhibits, news releases, news features, films, television and radio productions, articles for national magazines, and daily assistance to representatives of the public media.)

Types of Assistance: Dissemination of Technical Information.

Juvenile Justice and Delinquency Prevention--Special Emphasis and Technical Assistance (16.541)

Office of Juvenile Justice and Delinquency Prevention, Department of Justice.

Objectives: To develop and implement programs that design, test, and demonstrate effective approaches, techniques, and methods for preventing and controlling juvenile delinquency through development and testing of selected approaches for reducing and controlling violent and serious youth crime; utilization of community-based alternatives to traditional forms of official justice system processing; improvement of the capability of public and private agencies to provide delinquency prevention services to youth and their families; development of new approaches and techniques for reducing school drop-outs, unwarranted suspensions, and expulsions; and through support of advocacy by groups and organizations committed to protection and improvement of the legal rights and welfare of youth. To provide technical assistance to Federal, State, and local governments, courts, public and private agencies, institutions, and individuals, in the planning, establishment, operation or evaluation of juvenile delinquency programs; and to assist operating agencies having direct responsibilities for prevention and treatment of juvenile delinquency.

Types of Assistance: Project Grants (Contracts).

National Institute for Juvenile Justice and Delinquency Prevention (16.542)

Office of Juvenile Justice and Delinquency Prevention, Department of Justice.

Objectives: To encourage, coordinate, and conduct research and evaluation of juvenile justice and delinquency prevention activities; to provide a clearinghouse and information center for collecting, publishing, and distributing information on juvenile delinquency; to conduct a national training program; and to establish standards for the administration of juvenile justice.

Types of Assistance: Project Grants (Contracts).

Culture

Institute of Museum Services (45.301)

National Foundation on the Arts and Humanities, Institute of Museum Services.

Objectives: To help ease the increased cost borne by museums as a result of their increasing use by the public; to encourage and assist museums in their educational and conservation roles; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage.

Types of Assistance: Direct Payments with Unrestricted Use.

Promotion of the Arts--Museums (45.012)

National Endowment for the Arts, National Foundation on the Arts and the Humanities.

Objectives: To provide grants in support of American museums' essential activities. (Grants may be used for mounting special exhibitions, utilization of collections, visiting specialists, conservation, training of museum professionals, collection maintenance, wide availability of museums, independent study for individuals, museum sabbaticals, and cataloging.)

Types of Assistance: Project Grants.

Promotion of the Arts--Challenge Grants (45.013)

National Endowment for the Arts, National Foundation on the Arts and the Humanities.

Objectives: To enable cultural organizations and institutions (only nonprofit organizations are eligible, includes local governments and State art agencies) to increase the levels of continuing support and to increase the range of contributors to the programs of such organizations or institutions; to provide administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning; to enable cultural organizations and institutions to increase audience participation and appreciation of programs sponsored by such organizations and institutions; to stimulate greater cooperation among cultural organizations and institutions especially designed to better serve the communities in which such organizations or institutions are located; and to foster greater citizen involvement in planning the cultural development of a community.

Types of Assistance: Project Grants.

Promotion of the Arts--Folk Arts (45.015)

National Endowment for the Arts, National Foundation on the Arts and the Humanities.

Objectives: To provide grants to assist, foster, and make publicly available the diverse traditional American folk arts throughout the country. To encourage projects involving those community or family-based arts that have endured through several generations and that carry with them a sense of community aesthetic. Available for the presentation of American folk arts, including festivals and exhibits; for media documentation and dissemination of American folk arts, including local and regional programming on television, radio, sound recordings, film, and videotape; and for the development of organizations professionally involved in the support of folk arts and folk artists. (Eligibility: nonprofit organizations, including State and local governments and State art agencies; individuals who possess exceptional talent.)

Types of Assistance: Project Grants.

Promotion of the Humanities--Humanities Projects in Museums and Historical Organizations (45.125)

National Endowment for the Humanities, National Foundation on the Arts and the humanities.

Objectives: To assist museums, historical organizations and other similar cultural institutions to implement effective and imaginative programs that use material culture to convey and interpret the humanities to the general adult, out-of-school public. (Eligibility: State and local governments and nonprofit museums, historical organizations, historic sites, zoos, plantaria, botanical gardens, and other institutions capable of implementing public programs in the humanities.)

Types of Assistance: Project Grants.

Block Grants */

The State of Hawaii is also the recipient "block grants" from the Federal Government. The block grants available to the State of Hawaii include the following:

Alcohol, Drug Abuse and Mental Health Services

- Prevention, treatment and rehabilitation program to deal with alcohol and drug abuse;
- Community treatment services for mental and emotional illness;
- Outpatient care for the chronically mentally ill.

Preventive Health

- Comprehensive public health services;
- Rodent control, fluoridation programs, hypertension, anti-smoking, services to rape victims, and rape prevention programs;

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*/ Information on Block Grants obtained from Commissioner Carl Anderson, U.S. Department of Health and Human Services.

- Planning, establishing or improving emergency medical services, but not operations or equipment;

- Home health service agencies (demonstration).

Primary Care

- Community health centers that serve the medically underserved.

Community Services

(The law replaced the antipoverty programs operated under the Economic Opportunity Act by the Community Services Administration, abolished that agency, and provided for the establishment of an Office of Community Services in the Department of Health and Human Services.)

- Programs that address the causes of poverty and encourage self-sufficiency by assisting low-income people in employment, education, housing, emergency assistance, community participation, and by encouraging the involvement of the private sector in these activities.

Low-Income Energy Assistance

- Assistance to low-income households to meet the costs of home energy (heating or cooling), energy crisis intervention or low-cost weatherization.

Maternal and Child Health

- Maternal and child health services, especially for low-income people;

- Crippled children's services, Social Security Insurance for disabled children, lead-based paint programs, genetic disease screening, sudden infant death programs, hemophilia, and adolescent pregnancy.

Social Services

(The law consolidated Title XX Social Services, Day Care, and State and Local Training)

- Programs or services to help those with special needs to achieve and maintain a greater degree of economic self-sufficiency and to prevent neglect, abuse or exploitation of children and adults who are unable to protect their own interest. Services may be particularly directed to the special needs of children, older people, handicapped people, emotionally disturbed people, and those who may be addicted to alcohol or drugs;

- Community-based and home-based care to prevent unnecessary institutionalization; service to persons in institutions.

B. STUDY OF MILITARY PROPERTY REQUIREMENTS IN HAWAII

Periodically, the Department of Defense undertakes a study of military property use requirements in Hawaii. A report growing out of such a study was made in January, 1973 (the FRESH study); another report was completed in April, 1979 (MILPRO-HI Report). 7/ The purpose of these reports is to identify landholdings required to support planned military missions and force levels in Hawaii. As part of the study, the Department of Defense identifies DOD-controlled real property that can be made available for release without degradation of the Defense Department's mission. It also reviews joint military/civil use of DOD-controlled property to evaluate existing joint use and to identify areas of possible additional joint use. The reviews provide the opportunity for identification of land and facilities that might be made available for native Hawaiian use.

The report notes that total real estate owned by the military in Hawaii is just under 170,000 acres, or about four percent of the total 4,050,000 acres on the eight major islands of the State. Leases, licenses, and easements permit the Defense Department to have non-exclusive use (mostly for training) of about 90,000 acres of open land owned by others. There has been a net reduction of over 25,000 acres from the 1973 Program FRESH total, mostly from the decline in leased training areas. 8/

The MILPRO-HI Report identifies a number of areas available to be released, totaling over 3,000 acres. 9/ Some of these include ceded lands, which, if released, under the provisions of the P.L. 88-233 (December 23, 1963) must be returned to the State when no longer needed by the Federal Government. 10/ In addition, as part of its analysis of existing and planned land use, the report reviews joint use between the military and civilian users. 11/

To assure that any lands that the Department of Defense releases are considered for use that would meet the unique needs of native Hawaiians, the Commission will provide a copy of its Report to the Department of Defense with a request that attention be paid to those needs. In addition, to assure that similar consideration is given for use of ceded lands which, if released by the Department of Defense, are returned to the State, the Commission will make a similar request of the State. 12/

C. PRESIDENT'S FEDERAL PROPERTY REVIEW BOARD

President Reagan has established a program to review federal landholdings (other than military holdings) throughout the country in order to determine what land and buildings are no longer needed for government use and can be disposed of. The federal members of the Commission have worked with the Executive Director of the Federal Property Review Board to ask that the unique needs of the native Hawaiians be considered when property use is reviewed and when disposition is considered.

D. ESTABLISHMENT OF KALOKO/HONOKOHAU NATIONAL HISTORICAL PARK

The Kaloko-Honokohau National Historic Park has specific historical and cultural significance for native Hawaiians. In 1978, Congress passed legislation authorizing the national historical park based essentially on a 1974 report by the National Park Service and a special study commission for the park (P.L. 95-625). The value of land to be acquired for the park was appraised in 1979 at $62 million. Only $25 million has been authorized for acquisition, however. To assist in acquiring land for the park, which is mostly in private ownership, in 1980 Congress passed P.L. 96-514, which authorizes the exchange of federal surplus lands for lands in Kaloko/Honokohau. The Federal Government remains committed to acquisition of the land needed to establish this park, and is continuing to undertake the work and review necessary to establish it. 13/

FEDERAL RESPONSES TO THE NEEDS OF NATIVE HAWAIIANS

NOTES

1/ Testimony of Winona Rubin to the Native Hawaiians Study Commission, January 15, 1982, p. 2.

2/ P.L. 95-568.

3/ P.L. 95-524.

4/ P.L. 95-341.

5/ P.L. 96-398.

6/ 48 U.S.C. §§ 691, *et seq*.

7/ *Military Property Requirements in Hawaii (MILPRO-HI), State of Hawaii*, April 1979, by the Department of Defense. The study excludes evaluation of Fort DeRussy and the Island of Kahoolawe, in accordance with Secretary of Defense guidelines, but includes that property in total land area evaluations. One commenter stated that sale of Fort DeRussy would be "an insensitive move."

8/ MILPRO-HI, Executive Summary, p. 3.

9/ MILPRO-HI, Section F.

10/ MILPRO-HI, p. A-1.

11/ MILPRO-HI, Section E.

12/ It has been suggested that any surplus federal lands be placed in trust for native Hawaiians. However, present law requires that ceded lands be returned to the State. Statutes regarding federal disposal of surplus property govern disposition of the remaining lands and property.

13/ An analysis was made in March 1982 to assist in expediting acquisition through purchase or exchange.

State Of Hawaii's Responses To Native Hawaiians' Unique Needs

The State of Hawaii has undertaken a number of steps to meet the unique needs of native Hawaiians. These include acquisition and disposition of revenue pursuant to Section 5(f) of the Statehood Admission Act (48 U.S.C. prec. §491 (P.L. 86-3)); establishment of the Office of Hawaiian Affairs (Act 273, 1980 Legislative Session, codified at Haw. Rev. Stat. §10-13.5); and establishment of State programs specifically for native Hawaiians through other departments of the State government.

A. ACQUISITION AND DISPOSITION OF REVENUE PURSUANT TO SECTION 5(f) OF THE ADMISSION ACT */

In 1959, Hawaii was admitted to the union as a state. 1/ The special status of Hawaii's public lands was recognized and the intent to return those lands to Hawaii made clear in Hawaii's Admission Act. These lands, formerly the Crown and Government lands, had been ceded to the United States at annexation. In an unprecedented action, the Federal Government relinquished title to most of the ceded lands held at the time of statehood. 2/

Section 5 of the Admission Act provides the key to understanding Hawaii's ceded lands and the State's responsibilities in relation to those lands. Section 5(a) names the State as successor in title to lands and properties held by the territory. 3/ Section 5(b) then declares that:

> ...[e]xcept as provided in subsection (c) and (d) of this section, the United States grants to the State of Hawaii, effective upon its admission into the Union, the United States' title to all the public lands and other property, and to all lands defined as "available lands" by section 203 of the Hawaiian Homes Commission Act, 1920, as amended, within the boundaries of the State of Hawaii, title to which is held by the United States immediately prior to its admission into the Union. 4/

Section 5(g) of the Act defines public lands and other public property as the "lands and properties that were ceded to the United States by the Republic of Hawaii under the joint resolution of annexation...or that have been acquired in exchange for lands or properties so ceded." 5/

Specifically excepted from the section 5(b) grant were ceded lands that had been set aside for federal use pursuant to an act of Congress, executive order, presidential proclamation, or gubernatorial proclamation. 6/ Section 5(c) of the Admission Act provided that such lands should remain the property of the United States.

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*/ Material for this section is taken directly from Melody MacKenzie, Sovereignty and Land: Honoring the Hawaiian Native Claim, pp. 45-53. Footnotes have been renumbered and where necessary specify earlier references. They are otherwise unchanged. Some comments received by the Commission stated that the Native Hawaiians Study Commission Draft Report did not address the ceded lands matter; this chapter, which remains unchanged from the Draft Report, fully responds to those comments.

Section 5(d) of the Act dealt with other exempted lands. It allowed the Federal Government to set aside, within five years, any ceded lands it was using under permit, license, or permission of the territory immediately prior to statehood. Once set aside those lands would also remain the property of the United States. 7/

Section 5(e) required each federal agency in Hawaii having control of land or property retained by the Federal Government under section 5(c) or 5(d) to:

> ...report to the President the facts regarding its continued need for such land or property, and if the President determined that the land or property is no longer needed by the United States, it shall be conveyed [sic] to the State of Hawaii. 8/

This provision, however, set a five-year deadline for reporting and conveying lands to the State. After August 21, 1964, five years from the date on which Hawaii formally entered the Union, title to ceded lands retained by the Federal Government would vest permanently in the United States.

The final major subsection of section 5 sets forth the State's responsibilities in connection with ceded lands. Section 5(f) requires the State to hold all ceded lands returned under Sections (b) and (e), together with the proceeds from their sale or other disposition and the income therefrom:

> ...as a public trust for the support of the public schools and other public educational institutions, for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, for the development of farm and home ownership on as widespread a basis as possible, for the making of public improvements, and for the provision of lands for public use. Such lands, proceeds, and income shall be managed and disposed of for one or more of the foregoing purposes in such manner as the constitution and laws of said State may provide, and their use for any other object shall constitute a breach of trust for which suit may be brought by the United States. 9/

Return of Federally Controlled Lands

At the time of statehood, 287,078.44 acres of Hawaii's public lands had been set aside for the Federal Government. Although section 5(c) of the Admission Act allowed the Federal Government to retain set-aside lands, section 5(e) established a mechanism for conveying some of those lands to the new State. State officials had high hopes for return of substantial portions of federally-held lands, but as Section 5(e)'s five-year deadline approached, only 595.41 acres had been returned. 10/

Furthermore, section 5(d) of the Admission Act allowed the Federal Government to set aside, within five years, lands it was using under lease, permit, or license immediately prior to statehood. Prior to statehood, the Federal Government had permits and licenses on 117,412.74 acres of land. Virtually all of these lands were retained under the Federal Government's control. 87,236.557 acres of land were set aside pursuant to section 5(d) while another 30,176.18 acres were leased to the Federal Government for 65 years at nominal cost. 11/ A 1969 report on Hawaii's public lands described the situation as follows:

> Soon after statehood it became apparent that the Defense Department had no intention of immediately giving up control of any of this land, and that this

would quite likely be the final position of the executive branch. Faced with this prospect, Hawaii's Democratic congressional delegation pressed hard for some concessions, but was largely unsuccessful. Serious action by the United States Government was put off until the summer of 1964, when staff members from the Bureau of the Budget went to Honolulu to "negotiate" with Governor Burns regarding this land. The position of the government was uncomplicated. The bulk of the land, 87,236 acres, was definitely to be "set aside" while the remainder of the land was to be leased to the federal government for 65 years at the nominal charge of $1.00 for each lease. These leases were in fact offered as a kind of concession, for the alternative, as the federal negotiators made clear, would be the "setting aside" of this land as well. The State of Hawaii was clearly bargaining from a position of weakness, and was forced to agree to these terms. 12/

Some of Hawaii's political leaders objected to the five-year deadline set on the return of land that had been set aside for Federal Government use. 13/ They contended that Hawaii had a unique claim on these lands and property since they were originally given to the United States by the Republic and were held as a kind of "trust" for the people of Hawaii. As a result, on December 23, 1963, Congress passed Public Law 88-233, a reconveyancing act, effectively amending section 5(e) of the Admission Act. 14/ P.L. 88-233 abolished section 5(e)'s five-year deadline and extended, without limitation, the possibility of the Federal Government relinquishing title, without cost to the State, to section 5(c) and 5(d) ceded lands. However, all lands that had been set aside for national parks (approximately 227,972 acres) became the fee simple property of the Federal Government. Thus, under the provisions of P.L. 88-233 approximately 58,510 acres of land under the section 5(c) category and 87,236 acres under the section 5(d) category, totaling 145,746 acres, became eligible for return to the State of Hawaii at any time. Since 1964, however, less than 500 acres of land have been returned under the reconveyancing act's provisions. 15/

State Responsibilities in Relation to Ceded Lands

Section 5(f) of the Admission Act requires the State to hold the ceded lands, their proceeds, and income as a public trust for any one of five trust purposes:

(a) Support of public schools and other public educational institutions;

(b) Betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended;

(c) Development of farm and home ownership on as widespread a basis as possible;

(d) Making of public improvements; and

(e) Provision of lands for public use.

Section 5(f) also provides that the use of the ceded lands, their proceeds, and income for any purposes other than those enumerated "shall constitute a breach of trust for which suit may be brought by the United States." 16/

Since statehood, the Department of Land and Natural Resources (DLNR) has been charged with the receipt and administration of the public land trust established by this section of the Admission Act. 17/ However, a 1979 audit of the DLNR indicated that the trust has not been administered in conformance with the Admission Act. 18/ The DLNR has failed to properly dispose of the revenue and income from the public land trust. Hawaii Revised Statutes, section 171-18, the implementation legislation for section 5(f) of the Admission Act, established a public land trust fund for the receipt of funds derived from the sale, lease, or other disposition of ceded lands. 19/ Hawaii Revised Statutes section 171-19, created a separate fund, the special land and development fund, for all proceeds from the disposition of non-ceded lands (lands which the State may have acquired by condemnation, purchase or other means). 20/ This second fund was established for the maintenance and development of all public lands. These two funds were intended to serve different purposes. Monies deposited in the public land trust fund were to come from the disposition of ceded lands and were to be expended in a manner consistent with the directions of section 5(f) of the Admission Act. Monies deposited in the special land and development fund were to come from the disposition of non-ceded lands (lands not subject to the section 5(f) trust) and were to be expended to maintain and develop all public lands.

However, since statehood, DLNR has failed to make this distinction between the two funds and instead has deposited monies from the leases of all public lands into the public land trust fund and monies from the sale of all public lands into the special land and development fund. 21/ Thus, in depositing money in the two funds, the distinction between ceded lands (lands subject to the section 5(f) trust) and non-ceded lands (lands not subject to the 5(f) trust) has been ignored; instead, monies have been deposited on the basis of a lease/sale dichotomy.

The reason given for the failure to conform to the mandate of § 5(f) of the Admission Act is even more disturbing. No inventory of public lands exists and the DLNR has been unable to distinguish between ceded and non-ceded public lands. 22/ A recent article on Hawaii's ceded lands observed that:

> In fact, between statehood and 1979, no attempt had been made by the Department to compile a comprehensive inventory of the state's public lands, much less one distinguishing between its ceded and non-ceded portions. Notwithstanding the difficulty of assembling such an inventory given the deficiencies in existing records, it is still curious, in light of the requirements of the section 5(f), that such an inventory does not exist at the present time. 23/

That same article concluded that the absence of an inventory and the confusion of funds have impeded the administration of the section 5(f) public trust in several ways. 24/ First, because the DLNR cannot use the ceded/non-ceded distinction in recording receipts, there is no way of knowing the accuracy of its figures for each fund or of determining which monies belong to which fund. Since most of the income from public lands is derived from ceded lands, this failure to distinguish ceded and non-ceded lands has probably worked to the disadvantage of the public land trust fund. Secondly, the wrongful deposits may have resulted in expenditures of public trust monies for the purposes of the special land and development fund and vice versa. However, it is impossible to know the extent to which the expenditures may have been wrongfully applied until a comprehensive inventory is completed. Likewise, until an inventory is completed, the total amount of monies available for section 5(f) trust purposes cannot be determined. Finally, because section 5(f) requires the State to hold ceded lands separately in trust, the State's failure to identify ceded lands, like a private trustee's failure to identify and segregate trust assets, constitutes an independent breach of its 5(f) obligations.

B. THE OFFICE OF HAWAIIAN AFFAIRS */

Until the 1978 Constitutional Convention, little attention had been focused on section 5(f) of the Admission Act and its trust language. At the Convention, however, members of the Hawaiian Affairs Committee sought to clarify and implement the Admission Act's trust language as it relates to native Hawaiians. 25/ As a result three new sections were added to the Constitution.

The first section specified that the lands granted to the State by Section 5(b) of the Admission Act (with the exception of the Hawaiian Homes Commission Act's "available lands") were held by the State as a public trust for native Hawaiians and the general public. 26/ The second section established an Office of Hawaiian Affairs (OHA), to be governed by a nine-member board of trustees, which would hold title to all real or personal property set aside or conveyed to it as a trust for native Hawaiians and Hawaiians. 27/ A final section set forth the power of the board of trustees and made it clear that included within the property that OHA was to hold in trust would be a pro rata portion of the income and proceeds from the lands granted to the State by section 5(b) of the Admission Act. 28/ (An additional section defined the terms Hawaiian and native Hawaiian, but the Hawaii Supreme Court subsequently determined that this section had not been validly ratified in the 1978 general election. 29/)

Although OHA was established to serve all [native] Hawaiians, it is clear from the OHA amendment and the relevant committee reports 30/ that the Constitutional Convention structured OHA as the trust entity to receive and administer the share of the public land trust funds designated for the betterment of the conditions of native Hawaiians [as defined] under the Admission Act. The definition of native Hawaiian in section 5(f) of the Admission Act is tied to the definition of native Hawaiian under the Hawaiian Homes Commission Act. Benefits under the Hawaiian Homes Commission Act are limited to those with fifty percent or more aboriginal blood. 31/ Thus, although the OHA amendment names two beneficiaries of the OHA trust--native Hawaiians (those with fifty percent or more aboriginal blood) and Hawaiians (those with any quantum of aboriginal blood)--OHA is restricted to utilizing its public land trust funds solely for the benefit of its native Hawaiian [50 percent blood quantum] beneficiaries.

The Admission Act left to State law the allocation of the public land trust proceeds and income among the five trust purposes. 32/ While the

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*/ Material for this section was taken directly from MacKenzie, Sovereignty and Land, pp. 53-56. Footnotes have been renumbered and where necessary specify earlier references, but are otherwise unchanged. Definitional clarifications to make this section consistent with the remainder of the Report have been added in brackets.

OHA constitutional provision stated that a pro rata share of the proceeds and income should be directed to OHA, the amendment did not define that pro rata share. That determination was left to the State legislature and in 1980, after lengthy discussion, OHA's pro rata share was set at twenty percent. 33/

Securing a pro rata portion of the public land trust fund for native Hawaiians [50 percent blood quantum] was a primary motive for establishing the Office of Hawaiian Affairs. Of equal importance, however, were the objectives of providing all [native] Hawaiians with the right to choose their leaders through the elective process and providing a vehicle for self-government and self-determination. The high level of voter participation in the 1980 OHA elections indicates that those objectives are supported by the [native] Hawaiian people. 34/

OHA is a unique entity combining features of both a public trust and government agency. Under Hawaii law, OHA is a separate state agency, independent of the executive branch. 35/ Its independence is assured by its primary funding mechanism (the public land trust fund), its control over internal affairs, its ability to acquire and manage property, its power to enter into contracts and leases, and the elective process by which the Board of Trustees is chosen. 36/ At the same time, OHA also acts as a trustee in administering its funds for the benefit of native Hawaiians and Hawaiians. OHA's statutory purposes 37/ include:

1. Promoting the betterment of conditions of all [native] Hawaiians;

2. Serving as the principal public agency in the State responsible for the performance, development, and coordination of programs and activities relating to [native] Hawaiians, with the exception of the Hawaiian Homes Program;

3. Assessing the policies and practices of other agencies impacting on native Hawaiians [50 percent blood quantum] and [native] Hawaiians;

4. Conducting advocacy efforts for native Hawaiians [50 percent blood quantum] and [native] Hawaiians;

5. Applying for, receiving, and disbursing grants and donations from all sources for native Hawaiians [50 percent blood quantum] and [native] Hawaiians; and

6. Serving as a receptacle for reparations from the Federal Government.

C. OTHER STATE GOVERNMENT PROGRAMS

Other existing State programs for education, health, and other needs of the native Hawaiians, as well as other state residents, are described in Part I of this Report.

STATE OF HAWAII'S RESPONSES TO NATIVE HAWAIIAN'S UNIQUE NEEDS

NOTES

1/ Admission Act of March 18, 1959, 735 Stat. 4.

2/ Hawaii's Ceded Lands, 3 U.H.L.R., 101, 102 (1981) [hereinafter cited as "Ceded Lands"].

3/ Admission Act, supra, at §5(a).

4/ Ibid. at §5(b).

5/ Ibid. at §5(g).

6/ Ibid. at §5(c).

7/ Ibid. at §5(d).

8/ Ibid at §5(e).

9/ Ibid. at §5(f).

10/ Ibid., R. Horowitz, Public Lands Policy in Hawaii; an Historical Analysis (Legislative Reference Report No. 5, 1969), pp. 70-71.

11/ Ibid. p. 75.

12/ Ibid.

13/ See discussion in Ibid., pp. 72-72.

14/ Pub. Law. No. 88-233, 77 Stat. 242 (December 23, 1963).

15/ Interview with Jack Kaguni, formerly of the Land Management Division of the Hawaii Department of Land and Natural Resources.

16/ Admission Act, supra, at § 5(f).

17/ The DLNR is charged with managing all of Hawaii's public lands. See generally, HRS Chap. 171, and HRS §26-15 and note 86, infra.

18/ A Report to the Governor and the Legislature of the State of Hawaii, submitted by the Legislative Auditor of the State of Hawaii, Audit Report No. 79-1 (January 1979) [hereinafter cited as "Audit"].

19/ HRS §171-18 provides: Public land trust. All funds derived from the sale or lease or other disposition of public lands shall be appropriated by the laws of the State; provided, that all lands ceded to the United States by the Republic of Hawaii under the joint resolution of annexation, approved July 7, 1898 (30 Stat. 750), or acquired in exchange for lands so ceded, and returned to the State of Hawaii by virtue of section 5(b) of the Act of March 18, 1959 (73 Stat. 6), and all proceeds and income from the sale, lease or other disposition of lands retained by the United States under sections 5(c) and 5(d) of the Act and later conveyed to the State under section 5(e) shall be held as a public trust for the support of the public schools and other public education institutions, for the betterment of the conditions of native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920, as amended, for the development of farm and home ownership on as widespread a basis as possible, for the making of public improvements, and for the provision of lands for public use. (L 1962, c 32, pt of §2; Supp, §103A-181).

20/ HRS §171-19 authorizes the land board to use the special land and development fund for the following purposes:

(1) To reimburse the general fund of the State for advancements heretofore or hereafter made therefrom which are required to be reimbursed from the proceeds of sales, leases, licenses, or permits derived from public lands;
(2) For the incidental maintenance of all lands under the control and management of the board, including the repair of the improvements thereon, not to exceed $100,000 in any fiscal year;
(3) To repurchase any land, including improvements thereon, in exercise by the board of any right of repurchase specifically reserved in any patent, deed, lease, or other documents or as provided by law;
(4) For the payment of all appraisal fees; provided, that all such reimbursable fees collected by the board shall be deposited in the fund;
(5) For the payment of publication notices as required under this chapter, provided that all or a portion of the expenditures may be charged to the purchaser or lessee of public lands or any interest therein under rules and regulations adopted by the board;
(6) For the planning and construction of roads and trails along state rights-of-way not to exceed $5,000 in any fiscal year;
(7) For the payment to private land developer or developers who have contracted with the board for development of public lands under the provisions of section 171-60.

21/ *Audit*, pp. 32-33.

22/ *Ibid*. at 35.

23/ *Ceded Lands*, pp. 142-143.

24/ *Ibid*.

25/ The State has channeled the majority of the public land trust funds toward public education.

26/ State Constitution, Art. XII, §4: PUBLIC TRUST. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for native Hawaiians and the general public. (Add Const. Con. 1978 and election Nov. 7, 1978).

27/ *Ibid*., §5: OFFICE OF HAWAIIAN AFFAIRS; ESTABLISHMENT OF BOARD OF TRUSTEES. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians, as provided by law. The board members shall be Hawaiians. There shall be not less than nine members of the board of trustees; provided that each of the following Islands have one representative: Oahu, Kauai, Maui, Molokai and Hawaii. The board shall elect a chairperson from its members. (Add Const. Con. 1978 and election Nov. 7, 1978).

28/ Ibid. §6. POWER OF BOARD OF TRUSTEES. The board of trustees of the Office of Hawaiian Affairs shall exercise power as provided by law: to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds referred to in section 4 of this article for native Hawaiians; to formulate policy relating to affairs of native Hawaiians and Hawaiians; and to exercise control over real and personal property set aside by state, federal or private sources and transferred to the board for native Hawaiians and Hawaiians. The board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board. (Add Const. Con. 1978 and election Nov. 7, 1978).

29/ The definitional section in the proposed amendment defined Hawaiian as "any descendant of the races inhabiting the Hawaiian Islands, previous to 1778" and native Hawaiians as "descendants of not less than one-half of the blood of races inhabiting the Hawaiian Islands previous to 1778 as defined by the Hawaiian Homes Commission Act, 1920, as amended or may be amended." 1978 Constitutional Convention Proposal No. 13, R.D.2, S.1. Kahalekai v. Doi, 60 Haw. 324, 590 P. 2d 543 (1979), held that this section was not validly ratified.

30/ Constitutional Convention of 1978, Committee on Hawaiian Affairs Standing Comm. Report No. 59 and Committee of the Whole Report No. 13.

31/ See Hawaiian Homes Commission Act, 42 Stat. 108.

32/ Admission Act, supra at §5(f).

33/ Act 273, 1980 Legislative Session, codified at Haw. Rev. Stat. §10-13.5.

34/ In the 1980 election, 54,083 Hawaiians registered to vote in the OHA elections representing over 80 percent of the total estimated eligible Hawaiian voters. 78.9 percent of these registered voters cast ballots in the OHA election.

35/ Haw. Rev. Stat. §10-4.

36/ Ibid. sets forth the powers of the OHA trustees.

37/ Ibid. at §10-3.

Private And Local Responses To Special Needs Of Native Hawaiians

A number of private and local organizations have worked to meet the unique needs of native Hawaiians. These include Alu Like, Inc., the Queen Liliuokalani Children's Center, the King William C. Lunalilo Trust, and the Kamehameha Schools established under the Bernice Pauahi Bishop Estate.

A. KAMEHAMEHA SCHOOLS/BERNICE PAUAHI BISHOP ESTATE

When Bernice Pauahi Bishop, the last descendant of Kamehameha I, died in 1884, the bulk of her estate of over 373,000 acres was bequeathed to a charitable trust, to be administered by five named persons whose successors were to be appointed by a majority of the justices of the State Supreme Court. 1/ Approximately 90 percent of the estate's land is leased for long terms for residential, agricultural, commercial, and industrial purposes. 2/ The purpose of the trust is to maintain two schools and to support orphans and other indigents "giving the preference to Hawaiians of pure or part aboriginal blood..." The estate has limited its activities almost exclusively to maintaining the Kamehameha School for its students, all of whom have native Hawaiian blood. 3/ Currently, 2,617 students attend School camps. 4/ The school also has an extension education division, involving over 20,000 students in 28 different activities. 5/

B. QUEEN LILIUOKALANI CHILDREN'S CENTER

Queen Liliuokalani established a trust, as amended October 11, 1911, which provided: "From and after the death of the Grantor, all the property of the trust estate, both principal and income,...shall be used by the trustees for the benefit of orphan and other destitute children...in the Hawaiian Islands, the preference to be given to the Hawaiian children of pure or part aboriginal blood." 6/

At the outset, the trust established an orphanage. In 1934, the Trustee sought to substitute care in foster homes for the outmoded orphanage. At present:

> Our staff not only meet the various needs of the children left orphaned by the death of a parent, but also other children whose educational needs are not being met at school and at home, the needs of teenage mothers who are keeping their children, needs of children coming from families which are dysfunctioning and disintegrating, needs of children and families in learning their cultural heritage. These various needs are being met by three agency programs: (1) Individual and Family Services; (2) Community Development; and (3) Group Services. 7/

The Trust operates such wide-ranging projects as counseling, the Children's Center campsite and beach, and agriculture/hydroponics projects to teach life skills to children. The focus is to provide services to children of Hawaiian and part-Hawaiian blood. In 1980, the Trust expended just over $2 million and provided continuous service to 5,594 children and brief service (one to two interviews) to 5,670 children. 8/

C. LUNALILO HOME 9/

The Lunalilo Home is a custodial care facility funded by the Lunalilo Trust Estate for indigent Hawaiians whose families are unable to care for them. Referral services are provided for those applicants needing nursing care or alcoholic treatment.

Currently, there are fifty-five residents: twenty-two men and thirty-three women. There are nineteen full-Hawaiians, and the majority of the others have more than 50 percent Hawaiian ancestry. They are housed in two large wards with two or three to a room. Twenty-three of the residents are disabled, needing wheelchairs, walkers, or canes, or are blind. Each individual provides his or her own medical care payments: Department of Social Services and Housing, private, Medicare, or other.

The Home attempts to maintain an enriched Hawaiian style of life. Polynesian music and dance are probably the most participated-in activities. The residents have formed their own ensemble and make appearances around the island.

Other disabled and/or interested persons in the community are encouraged to participate in such Home programs as excursions, classes, and religious devotions. Many volunteers spend time assisting and teaching those who have interest.

D. ALU LIKE, INCORPORATED 10/

Alu Like, Inc. is a private, non-profit social change organization that works toward native Hawaiian economic and social self-sufficiency. It administers the Alu Like Native Hawaiian Projects and employment and training programs. Its primary funding sources are the United States Department of Health and Human Services and the Department of Labor; the State of Hawaii through the Hawaii Office of Economic Opportunity; and private foundations, donations, and volunteers. Alu Like provides a number of services, including: intake and referral to appropriate agencies; advocacy and community development; training and technical assistance; pilot projects to demonstrate resolution of blocks, gaps, and needs; employment and training; and Economic Development Institute activities. Alu Like administers island centers on Hawaii, Maui, Molokai, Oahu, and Kauai.

PRIVATE AND LOCAL RESPONSES TO SPECIAL NEEDS OF NATIVE HAWAIIANS

NOTES

1/ Neil Levy, "Native Hawaiian Land Rights," 63 California Law Review 848 (1975), pp. 860, 870-876.

2/ Ibid., p. 871. Levy questions whether the investment policy of the trustees produces sufficient return to meet their fiduciary obligations.

3/ Ibid., p. 872. As of 1975, the Kamehameha Schools received 85 percent of their expenses from the Estate; the remainder came from tuition paid by students.

4/ Alu Like, Inc., Analysis of Needs Assessment Survey and Related Data, A Team Report (1976), Part B-3.

5/ Ibid.

6/ Information for this part of the Report is taken from the 1980 Annual Report of the Queen Liliuokalani Children's Center-Liliuokalani Trust, and a statement of the Center-Trust "History and Programs."

7/ Ibid., 1980 Annual Report, p. 6.

8/ Ibid., p. 12.

9/ Alu Like, Analysis of Needs, Part B-3. One comment received by the Commission on its Draft Report points out that Kamehameha Schools, Queen Liliuokalani Children's Center and the Lunalilo Home started with a land base, the income from which provide funding. The Lunalilo Home sold its land and is funded by an investment portfolio that is worth a smaller amount than the land that funds the other two organizations. In addition, this commenter points out that two other services for native Hawaiians use a "land base"--Queen's Hospital and the Kapiolani Maternity Hospital.

10/ Information for this Section is taken from an undated Alu Like report provided to the Commission.

Photo by Robert Goodman.

A Hawaiian elder or kupuna.

Glossaries

- Selected Glossary of Hawaiian Words
- Glossary of Legal Terms

Selected Glossary Of Hawaiian Words*

ahupua'a: Land division usually extending from the uplands to the sea, so called because the boundary was marked by a heap (ahu) of stones surmounted by an image of a pig (pua'a), or because a pig or other tribute was laid on the altar as tax to the chief...

'aiā: Ungodly, irreligious, wicked, careless of observing taboos; wickedness.

'ai kapu: To eat under taboo; to observe eating taboos.

'āina: Land, earth.

'ai noa: To eat without observance of taboos.

akakū: Vision, trance; reflection, as in a mirror; to see a vision.

akamai: Smart, clever, expert; smartness, skill.

akua: God, goddess, spirit, ghost, devil, image, idol, corpse; divine, supernatural, godly...

'ālana: Offering, especially a free-will offering, contrasting with a mohai that was prescribed by a priest; to offer...

ali'i: Chief, chiefess, king, queen, noble...

aloha: Aloha, love, affection, compassion, mercy, pity, kindness, charity; greeting, regards; sweetheart, loved one; beloved, loving; to love, show kindness, mercy, pity, charity, affection; to remember with affection; to greet, hail...

'aumakua: 1) Family or personal god;...

ea: ...2) Life, breath, vapor, gas, breeze, spirit...

hā: To breathe, exhale; to breathe upon, as kava after praying and before prognosticating; breath, life...

hākaokao: 1) Decaying, as taro in the field or a few days after cooking. 2) Hole for inserting mast in a canoe.

haku ōhi'a: Image made of 'ōhi'a wood, as used in the luakini ceremonies; god of the 'ōhi'a tree.

hala: Sin, error, offense; to sin...

hālau: Long house, as for canoes or hula instruction...

hale 'aina: Restaurant, cafe, eating house; in ancient times, the eating house for women.

hale moe: Sleeping house.

hale pe'a: 1) Tent. 2) Menstrual house.

hana: Work, labor, job, duty, office; activity of any kind, action, act, deed, service, behavior; to work, labor, do, prepare; to develop as a picture; to have a love affair; to induce by sorcery...

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*/ All definitions are taken from: Mary Kawena Pukui and Samuel H. Elbert, Hawaiian Dictionary (Honolulu: University of Hawaii Press, 1971).

hānai: Foster child, adopted child...

hanu: To breathe, smell, sniff; breath, respiration; the last breath of life...

haole: White person, American, Englishman, Caucasian; formerly, any foreigner.

hapa haole: Part-white...

heiau: Pre-Christian place of worship; some heiau were elaborately constructed stone platforms, others simple earth terraces.

heiau ho'ola: Heiau for treating sick.

heiau po'okanaka: Heiau where human sacrifices were offered.

hiohio: 1) To whistle softly; to blow softly; to draw in the breath as of one eating hot food. 2) Gibberish; to jabber. 3) Lure for trolling, said to be named for its whistling sound tripping over the water.

hō'ike: To show, exhibit.

ho'olono: To listen, hear, obey, obedient.

ho'opāpā: (a) To touch repeatedly; to feel, as a blind person; a contest in wit or strength; to hold such a contest; repartee...

ho'oūlu: To grow (trans.), sprout, cause to increase, as the surf...2) Possessed by a spirit; inspired by a spirit, god, ideal, person; stirred, excited; to enter in and inspire...

'ie'ie: 1) An endemic woody, branching climber (Freycinetia arborea) growing luxuriantly in forests at altitudes of about 1,500 feet...2) A native variety of taro, with leaf blades and flowers suggesting 'ie'ie, 1; the leaves are dark and glossy, the petioles reddish with yellow-green stripes.

'ili: ...5) Land section, next in importance to ahupua'a and usually a subdivision of an ahupua'a.

'ili kūpono: A nearly independent 'ili land division within an ahupua'a, paying tribute to the king and not to the chief of the ahupua'a. Transfer of the ahupua'a from one chief to another did not include the 'ili kūpono located within its boundaries.

ilo: ...2) Young shoot; to germinate, sprout.

'ino: Wicked; immoral, sinful; sin.

ipu: The bottle gourd...Hawaiians have long used gourds as receptacles, small gourds with thin walls to hold water or food, or for rattles for dances (the ipu has a fine tone, halfway between that of niu and la'amia), larger ones with thin to thick walls to hold tapa and other articles or to serve as drums...

kahakō: Steep, sheer.

kahu akua: One who takes care of an image or god; priest.

kahuna: Priest, minister, sorcerer, expert in any profession; to act as priest or expert.

kahuna lapa'au: Medical doctor, medical practitioner. Lit., curing expert.

kaikua'ana: Older sibling or cousin of the same sex; sibling or cousin of the same sex of the senior line, whether older or younger.

kama'aina: Native-born, one born in a place, host; native plant; acquainted, familiar...

kanaka maoli: Hawaiian person.

kanawai: Law, code, rule, statute; legal (perhaps so called because many early laws pertained to water [wai] rights); to obey a law; to learn from experience...

kaokao: Syphilis. (Cf. hakaokao).

kaona: Hidden meaning in Hawaiian poetry; concealed reference, as to a person, thing, or place; words with a double meaning that might bring good or bad fortune...

kapa: Tapa, as made from wauke or mamaki bark; formerly clothes of any kind or bedclothes...

kapu: Taboo, prohibition; sacredness...

kaua: War, battle; army; to make war.

kauila: ...3) Taboo ceremony consecrating a temple; ceremonial readorning of images with feathers...

kauwā: Untouchable, outcast, pariah; a caste which lived apart and was drawn on for sacrifical victims; slave; servant...

kino: 1) Body, person, individual, self; main portion; form; fully formed, as a foetus; bodily, physical...

kino lau: Many forms taken by a supernatural body, as Pele, who could at will become a flame of fire, a young girl, or an old hag.

kino wailua: Spirit of the dead; dead person, bodily remains, corpse.

kōko: Blood; rainbow-hued...

kokua: Help, assistant, helper; comforter; co-operation; to help, assist, support; to second a motion...

konohiki: Headman of an ahupua'a land division under the chief...

Kū: ...11) Name of major god...

kuhina nui: Powerful officer in the days of the monarchy; the position is usually translated as "prime minister" or "premier," but according to Kuykendall, carried greater power; the kuhina nui shared executive power with the king.

kukui: Candlenut tree (Aleurites moluccana), a large tree in the spurge family bearing nuts containing white, oily kernels which were formerly used for lights and are still cooked for a relish...

kuleana: ...Small piece of property, as within an ahupua'a...

kupua: Demigod, especially a supernatural being possessing several forms as kama-pua'a (man, pig, fish), lae-nihi (a woman, a fish); one possessing mana; to possess kupua (magic) powers...

kupuna: Grandparent, ancestor, relative of the grandparent's generation, grandaunt, granduncle.

lauloa: Long wave or surf, as extending from one end of the beach to the other. Also called kakala.

lehua: 1) The flower of the 'ohi'a tree (Metrosideros macropus, M. collina); also the tree itself; the lehua is the flower of the island of Hawaii, famous in song and tale. Fig., a warrior, a beloved friend or relative, a sweetheart, an expert...

lei: Lei, garland, wreath, necklace of flowers, leaves, shells, ivory, feathers, or paper, given as a symbol of affection; beads; any ornament worn around the head or about the neck; to wear a lei; special song presenting a lei; crown...

lipo: 1) Deep blue-black, as of a cavern, the sea, or dense forest; dim, distant...

loa: Distance, length, height; distant, long, far; permanent...

Lono: ...2) One of the four major gods brought from Tahiti, the god of the makahiki harvest festivities and of agriculture. He is also regarded as the god of medicine. Captain Cook was believed to be the god Lono and was thus addressed...

luakini: Temple, church, cathedral, tabernacle; large heiau where ruling chiefs prayed and human sacrifices were offered.

lū'au: 1) Young taro tops, especially as baked with coconut cream and chicken or octopus...

luna: ...2) Foreman, boss, overseer, supervisor, officer of any sort, commissioner.

mahina: Moon, month; moonlight. Mahina meli, honeymoon...

maika'i: Good, well, fine, excellent; good-looking, handsome, beautiful, goodness, righteousness, well-being, morality; good looks, good health...

maile: A native twining shrub (Alyxia olivaeformis), with shiny fragrant leaves, used for decoration and leis. It is a member of the periwinkle family. Laka, goddess of the hula, was invoked as the goddess of the maile, which was one of five standard plants used in her altar.

ma'i-'ōku'u, ho'ōku'u: Disease at time of Kamehameha I, perhaps cholera, and perhaps so called because it was dysenteric, and people were squatting ('oku'u) much at stool.

ma'i-Pākē: Leprosy, literally, Chinese disease.

maka'āinana: Commoner, populace, people in general; citizen...

Maka-'alohilohi: Name of a star. Lit., bright eye.

makahiki: ...2) Ancient festival beginning about the middle of October and lasting about four months, with sports and religious festivities and taboo on war.

malo: Male's loincloth; chant in praise of a chief's loincloth...

mana: Supernatural or divine power; a powerful nation, authority...

mele: Song, chant of any kind, poem.

Menehune: Legendary race of small people who worked at night, building fish ponds, roads, temples, if the work was not finished in one night, it remained unfinished...

moepu'u: Victim slain at the secret burial of a chief, so as to reduce the number of witnesses; victim who commits suicide or has himself killed in order to show love for a dead chief, death.

moe 'uhane: Dream; to dream.

mō'ī: King, sovereign, ruler, queen; a rank of chiefs who could succeed to the government but who were of lower rank than chiefs descended from the god Kane.

moku: ...2) District, island, section; forest, grove; severed portion; fragment, cut...

na'auao: Learned, intelligent, enlightened; learning, science...

namu: 1) Unintelligible muttering, gibberish; any foreign language, especially English; to speak gibberish or a foreign language...

nī'au kani: A true jew's harp, made of a thin strip of wood, about four inches long and one inch wide, with a coconut midrib (ni'au) or bamboo strip lashed lengthwise; played something like the 'ūkēkē.

no'eau: Clever, skillful, dexterous, wise, artistic.

noho: Seat, chair, stool, bench, saddle...2) To live, dwell; to be in session; to stay, tarry; to marry...

'ohā: Taro growing from the older root, especially from the stalk called kalo; tender plant...

'ohana: 1) Family, relative, kin group; related. 2) To gather for family prayers (short for pule 'ohana).

'ōiwi: Native, native son...

'okina: Cutting off, ending, severance, separation. 2) Glottal stop.

ola: Life, health, well-being, living, livelihood, means of support, salvation; alive, living; spared, recovered; healed, to live; to spare, save, heal, grant life...

'ōlani: 1) To toast over a fire, broil, warm in sunlight...

'ōlelo: Language, speech, word; to speak, say, tell; oral, verbatim, verbal...

'ōpū ali'i: (Same as na'au ali'i - kind, thoughtful, forgiving, possessed of aloha. Lit., chiefly heart.)

papa: Flat surface, stratum, layer, level, foundation, story of a building; class, rank, order, table; ...

pono: 1) Goodness, uprightness, morality, moral qualities, correct or proper procedures, excellence, well-being, prosperity, welfare, true condition or nature, duty; moral, fitting, proper, right, just, fair, beneficial, successful, in perfect order...

po'o kanaka: Human head, skill. Cf. heiau po'o kanaka

po'olua: Child sired by other than the husband, but accepted by both husband and sire; this acceptance increased the number of relatives of the child who gave their loyalty to him as kinsmen; it thus fostered the prestige of children of chiefs; translated 'adulterous" in the 1843 Bible (Mar. 8.38), but changed in later editions.

pū: 1) Large triton conch shell (*Charonia tritonis*); any wind instrument, as horn, trumpet, cornet...2) Gun, pistol...

pu'uhonua: Place of refuge, asylum, place of peace and safety.

uakoko: 1) A low-lying rainbow. *Lit*., blood rain. 2) A rain so heavy that it turns stream waters red-brown with the wash of the hillside...

'uhane: Soul, spirit, ghost; dirge or song of lamentation (rare); spiritual.

'ūkēkē: A variety of musical bow, fifteen inches to two feet long and about an inch and a half wide, with two or commonly three strings drawn through holes at one end. The strings were strummed. According to Roberts...the old experts made no sound with the vocal cords, but the mouth cavity acted as a resonance chamber. The resulting sound suggested speech and trained persons could understand.

uluwehi: Lush and beautiful verdure; a place where beautiful plants thrive; festively adorned.

unu: ...2) Altar, especially a crude one for fishermen or for the god *Lono*...

wahine: Woman, lady, wife; sister-in-law, female cousin-in-law of a man, queen in a deck of cards; womanliness, female, femininity; feminine; Mrs.; to have or obtain a *wahine*; to become a woman, as an adolescent...

wao: A general term for inland region, usually not precipitous and often uninhabited.

wehi: Decoration, adornment; to decorate.

Glossary Of Legal Terms

Aboriginal title: A legal concept of title derived from a native group's use and occupancy of land from time immemorial.

Adverse possession: A principle that provides a method of acquired title of property by possession for a period of time fixed by statute and under certain conditions. The possession must be actual, adverse, under claim of right, open, and notorious.

Alienation of land: Conveyance or transfer of title to property.

Allodial: Free, owned without obligation to a superior feudal owner; the opposite of feudal.

Appurtenant water rights: Water rights used with the land for its benefit. In Hawaiian water law, a present right to use the amount of water used at the time of the award of the land under traditional Hawaiian land law.

Dictum: A remark by a court that is not essential to the ruling in the case; it does not have binding effect in later cases.

Extinguish title: The cancellation of a right to land.

Fast land: Land above the river banks, not subject to frequent erosion.

Fee simple absolute title: Title that is absolute to a person and his heirs and assigns forever without limitation or condition.

Feudal, defeudalization: Feudal lands are those held from a superior on condition of providing him with services. Defeudalization is changing the system of laws to end feudal tenure in lands.

Geothermal development: Establishing a means for deriving energy from the heat of the earth's interior.

Inalienable: Not subject to alienation; the characteristics of those things that cannot be bought, sold, or transferred from one person to another. An example is certain personal rights such as liberty.

Navigable waters: Rivers and streams that afford a channel for useful commerce. Waters are "navigable waters of the United States" when they form, by themselves or by uniting with other waters, a continuous highway over which commerce is or may be carried on with other states or foreign countries in the customary ways by which such commerce is conducted by water.

Patent (land patent): The document by which a state or government grants public land to an individual.

Prescriptive water rights: Rights to use surface waters that are acquired by long-term use.

Prorogue: To suspend or end a legislative session.

Quit claim: To release or relinquish a claim in land.

Recognized title: The right to occupy and use certain lands permanently that the United States has specifically granted by law or statute to a native group.

Title: The means by which the owner of lands had the possession of his property. It is the union of all the elements that constitute ownership.

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List Of References★

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[1] denotes references used by Richard Kekuni Blaisdell, in the "Historical and Cultural Background" section of his paper entitled, "Health Section of Native Hawaiians Study Commission Report." The section of his paper appears in this Final Report as Section B. of the chapter on "Health and Social Services."

[2] denotes the references used by Larry L. Kimura in his paper entitled "Language Section of Native Hawaiians Study Commission Report." His paper appears in the Final Report as Section B. of the "Native Hawaiian Culture" chapter.

(cont'd)

[3] denotes the references used by Rubellite K. Johnson in her paper entitled "Religion Section of Native Hawaiians Study Commission Report." Her paper appears in this Final Report as the chapter entitled "Native Hawaiian Religion."

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Thomas M. Spaulding Collection, Library of the University of Michigan, Ann Arbor, Michigan. These papers consist of typewritten copies of documents which are housed in the Archives of Hawaii.

United States, Ministers and Commissioners to Washington; Archives of Hawaii, Honolulu. Contains the instructions of the Hawaiian Foreign Officer under the Provisional Government to its representatives at Washington, and the despatches of the latter to the Hawaiian Foreign Minister. The contents are limited to the period of treaty negotiation during the first half of 1893.

United States, Ministers and Envoys to Washington; Archives of Hawaii, Honolulu. Contains the instructions of the Hawaiian Foreign Office under the Provisional Government and under the Republic to its representatives at Washington, and the despatches of the latter to the Hawaiian Foreign Minister. This file begins approximately at the point where the above one, Ministers and Commissioners, ends.

U.S. Department of State. Papers relating to the mission of James H. Blount, United States Commission to the Hawaiian Islands.

Wall, Charles Ormand, and Walter Wall. Letters concerning the counter-revolution of 1895. Robert Van Dyke collection.

Photo by Robert Goodman.

A Hawaiian construction worker, in contemporary Hawaii, watches the concrete piles go up on another high rise.

Appendix

- Public Law 96-565, Title III
- Substitute Findings/Conclusions/Recommendations Section Submitted at March 3, 1983 Native Hawaiians Study Commission Meeting
- Summary of Written Comments Received by the Commission
- Written Comments Received by the Commission

SEC. 301. This title may be cited as the "Native Hawaiians Study Commission Act".

NATIVE HAWAIIANS STUDY COMMISSION

SEC. 302. There is hereby established the Native Hawaiians Study Commission (hereinafter in this title referred to as the "Commission").

(b) The Commission shall be composed of nine members appointed by the President. Not more than three of such members shall be residents of the State of Hawaii.

(c) The Chairman and Vice Chairman of the Commission shall be designated by the President at the time of appointment.

(d) Vacancies in the membership of the Commission shall not affect the powers of the remaining members to execute the functions of the Commission and shall be filled in the same manner in which the original appointments were made.

(e) The President shall call the first meeting of the Commission not more than ninety days after the date of the enactment of this title.

(f) Five members of the Commission shall constitute a quorum, but a smaller number specified by the Commission may conduct hearings.

(g) Each member of the Commission shall receive $100 for each day such member is engaged in performing the duties of the Commission, except that members of the Commission who are fulltime officers or employees of the United States shall receive no additional pay on account of their service on the Commission other than official travel expenses.

(h) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission (including members who are fulltime officers or employees of the United States), shall be allowed travel expenses, including per diem, in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(i) Subject to such rules and regulations as may be adopted by the Commission, the Chairman may--

(1) appoint and fix the compensation of an executive director, a general counsel, and such additional staff as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate of pay in effect from time to time for grade GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(j) Subject to section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(k) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

DUTIES OF THE COMMISSION

Sec. 303. (a) The Commission shall conduct a study of the culture, needs and concerns of the Native Hawaiians.

(b) The Commission shall conduct such hearings as it considers appropriate and shall provide notice of such hearings to the public, including information concerning the date, location and topic of each hearing. The Commission shall take other actions as it considers necessary to obtain full public participation in the study undertaken by the Commission.

(c) Within one year after the date of its first meeting, the Commission shall publish a draft report of the findings of the study and shall distribute copies of the draft report to appropriate Federal and State agencies, to Native Hawaiian organizations, and upon request, to members of the public. The Commission shall solicit written comments from the organizations and individuals to whom copies of the draft report are distributed.

(d) After taking into consideration any comments submitted to the Commission, the Commission shall issue a final report of the results of its study within nine months after the publication of its draft report. The Commission shall submit copies of the final report and copies of all written comments on the draft submitted to the Commission under paragraph (c) to the President and to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(e) The Commission shall make recommendations to the Congress based on its findings and conclusions under subsection (a) of this section.

TERMINATION OF THE COMMISSION

Sec. 304. Except as provided in subsection (b) of section 307, upon the expiration of the sixty-day period following the submission of the report required by section 303, the Commission shall cease to exist.

DEFINITIONS

Sec. 305. For the purposes of this title, the term "Native Hawaiian" means any individual whose ancestors were natives of the area which consisted of the Hawaiian Islands prior 1778.

SAVINGS CLAUSES

Sec. 306. No provision of this title shall be construed as--

(1) constituting a jurisdictional act, conferring jurisdiction to sue, or granting implied consent to Native Hawaiians to sue the United States or any of its offices; or

(2) constituting a precedent for reopening, renegotiating, or legislating any past settlement involving land claims or other matters with any Native organization or any tribe, band, or identifiable group of American Indians.

AUTHORIZATION

Sec. 307. (a) There are hereby authorized to be appropriated for fiscal years 1982 and 1983 such sums as are necessary to carry out the provisions of this title. Until October 1, 1981, salaries and expenses of the Commission shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman. To the extent that any payments are made from the contingent fund of the Senate prior to the time appropriation is made, such payments shall be chargeable against the authorization provided herein.

(b) The Secretary of the Treasury shall reserve a reasonable portion of the funds appropriated pursuant to subsection (a) of this section for the purpose of providing payment for the transportation, subsistence, and reasonable expenses of the members of the Commission in testifying before the Congress with respect to their duties and activities while serving on the Commission or to such matters as may involve the findings of the study of the Commission after the expiration of the Commission pursuant to section 304.

Approved December 22, 1980.

Summary Of Findings, Conclusions And Recommendations★

As traced in the legislative history of measures preceding the establishment of the Native Hawaiians Study Commission (NHSC), the Congress wished to be advised about:

1) whether a wrong had been committed by the United States against the Native Hawaiian people; and

2) what appropriate actions could be recommended to remedy such a wrong.

It is the major finding of this Commission, after an examination of available governmental and historical records, that such a wrong did occur. The overthrow of the Kingdom of Hawai'i, the loss of Native Hawaiian domain and dominion, and accompanying social and cultural disruption among Native Hawaiians are consequences of that wrong.

Nature of the Wrong. After a review of the documents and on-hand descriptions of the actions and events which culminated in the overthrow of the Kingdom of Hawai'i, we find that:

- the United States, and its officers in the State and Navy Departments, did incite and encourage treason against the legitimate government of the Kingdom of Hawai'i;
- American diplomatic and military authorization or support to a numerically-small band of insurgents emboldened and, ultimately, directed their actions against the legal government of Hawai'i in 1893;
- this domestic insurgence against the Queen and her government lacked popular support, did not have sufficient arms to succeed unaided, and would have failed without the acts of the United States;
- the diplomatic and military intervention of the United States in support of the insurgents contituted a breech of international law, of existing treaties of friendship and trade with the Kingdom, and was an illegal and immoral act of war against an independent nation and her people; and
- these actions by the United States compelled the Queen of Hawai'i to suspend her authority and that of her government to the United States, pending appropriate review.

RECOMMENDATION #1

Based on these findings, we recommend that:

- the Congress of the United States, by Joint Resolution, clearly acknowledge the role and actions of the United States in the overthrow of the Kingdom of Hawai'i, and indicate its commitment to grant restitution for the losses and

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*/ This is the substitute presented at the March 3, 1983 meeting of the Native Hawaiians Study Commission by three Native Hawaiians Study Commissioners (see above, "Approach and Methodology"). It is reproduced here unchanged.

damages suffered by Native Hawaiians as a result of those actions.

Nature of the Losses and Damages. The Kingdom of Hawai'i and her people had a separate and distinct cultural, legal, and Constitutional history. Although strongly influenced by Euro-American models and individuals, Native Hawaiians had devised modern institutions of government, property and social organization which reflected both an ancient past and a contemporary standing among nations.

What, then, were the nature of the losses and damages experienced by Native Hawaiians with the illegal overthrow of the Kingdom of Hawai'i?

The lands and sovereignty of the Kingdom, and the interests of Native Hawaiians represented in them, are considered first.

After an examination of traditional land tenure systems, Constitutional provisions, and related Kingdom laws, we find that:

- Native Hawaiians held common and undivided anchestral land rights and interests vested in the domain and dominion of the Kingdom;
- these anchestral land rights and interests were not diminished nor extinguished by any royal or government actions initiated by the Kingdom of Hawai'i, but were protected and guaranteed by legal titles held by the Kingdom for all public, government, and crown lands;
- without the consent of or compensation to Native Hawaiians, these land rights and interests were assumed and subsequently ceded to the United States by a government whose existence was dependent on illegal actions by the United States;
- these land rights and interests were accepted by the United States without the consent of or compensation to Native Hawaiians, and without any disclaimer provision to protect these land rights.

Based on these findings, we advise the Congress that Native Hawaiians have compensable claims for the loss of anchestral land rights and interests vested in the domain and dominion of the Kingdom of Hawai'i.

These compensable claims echo, but do not duplicate, similar claims by American Indians and Alaskan Natives. The strongest parallel among the claims is a call for American justice once a wrong has been acknowledged.

Native Hawaiians are Americans now, proud of the ideals and qualities of justice through law. The pride in being Native Hawaiians is also strong. The overwhelming majority of Native Hawaiians do not want history to be re-written or to separate themselves from the United States. As proud Americans and Native Hawaiians, though, there is a desire and a basis for a remedy to past losses and damages.

RECOMMENDATION #2

Therefore, we recommend to the Congress that:

- the U.S. Senate Committee on Energy and Natural Resources and the U.S. House Committee on Insular and Interior Affairs consider and determine a just and equitable resolution of compensable claims by Native Hawaiians for losses of domain and dominion;

- these Committees consult and involve Native Hawaiians to the greatest extent possible in the resolution of these claims, and that any proposed restitution be subject to formal acceptance by Native Hawaiians; and

- pending resolution of these claims that the Congress take the appropriate action to assure that all lands controlled by the federal government in the State of Hawai'i maintain their current use and status, and that the archipelagic waters of Hawai'i enjoy the same security.

Congressional consideration of restitution to Native Hawaiians for illegal American actions leading to the overthrow of the Kingdom will, in all likelihood, include an examination of existing trust relationships between the United States and Native Hawaiians. These trust relationships are distinct, albeit not separate, from the claims for compensable losses and damages.

In order to help clarify the nature of the claims, however, a review of the trust relationships is a part of the groundwork necessary for determining restitution.

The Ceded Lands Trust. The public, crown, and government lands of the Kingdom totalled approximately 1.9 million acres -- nearly half the domain of the Islands. Under the control of the Republic of Hawai'i, 200,000 acres of these once-inalienable lands were transferred to private ownership.

At the time of American annexation of Hawai'i, then, the anchestral lands of Native Hawaiians encompassed 1.7 million acres of Hawai'i, much of it planted in sugar and pineapple by the terms of royal leases. These leases were undisturbed by the Republic and remained in force under the United States.

In the Joint Resolution of Annexation adopted by the Congress and passed by the Legislature of the Republic, the sovereignty and all "public, crown, or government lands" were ceded to the United States. This cession -- appropriate under international law -- was conducted without the consent of the people of Hawai'i and without compensation to Native Hawaiians.

The terms of this transfer, their later discussion in numerous Congressional hearings on statehood for the Territory of Hawai'i, and the eventual ratification of the Admission Act, substantiate these findings:

- the public, crown and government lands ceded to the United States were transferred as a trust to be maintained and managed for the benefit of all the "inhabitants" of Hawai'i;

- this trust imposed fiduciary responsibilities on the United States and constrained the use, management and proceeds generated from the trust to public purposes;

- the bulk of these lands were returned in fee to the State of Hawai'i in the Admission Act, with explicit trust impositions and the naming of two possible beneficiary classes: Native Hawaiians, as defined in the Hawaiian Homes Act, and the general public;

- the broad public purposes enunciated as consistent with the trust could be fulfilled at the discretion of the State; however, any purpose outside those named would result in a breach of trust.

From these findings, it is quite clear that the ceded lands trust was never intended nor construed to be restitution to Native Hawaiians.

The provision for Native Hawaiians, however, persuasively argues that Congress has extended a preliminary recognition of Native Hawaiian interests in those lands.

The State of Hawai'i, further, in the State Constitution of 1978, acknowledged the beneficiary interests of Native Hawaiians and provided a *pro rata* share of the ceded lands revenues be set aside for the "betterment of Native Hawaiians." These funds are administered and managed by the Office of Hawaiian Affairs whose Board of Trustees are elected by all Hawaiians.

(It should be noted here, and will be discussed in detail later, that the Native Hawaiians definition of the Hawaiian Homes Act is different from that guiding this Commission.)

This trust as a federal responsibility was not extinguished by the Admission Act or its terms. All ceded lands set aside for national park purposes were declared fee and the property of the Department of the Interior. However, it was the intent of Congress that all other lands controlled by the federal government were subject to return and incorporation into the trust of the State of Hawai'i.

This reversionary interest of the State in all non-park federal lands is now also of explicit trust interest to Native Hawaiians by the establishment of the Office of Hawaiian Affairs.

In the twenty-four years since Statehood, however, less than 600 acres of federally-controlled ceded lands have been returned.

RECOMMENDATION #3

Based on these findings, and the now-explicit reversionary interests of the Native Hawaiians and the State of Hawai'i, the following recommendation is offered to the Congress:

- that the Congress establish a Joint Federal-State Ceded Lands Commission for the State of Hawai'i, to review the present use and need for federally-controlled lands in Hawai'i;
- that this Commission advise the Congress on the status of these lands, and have the authority to declare such lands surplus and available for return to the State of Hawai'i; and
- that Native Hawaiians be included and consulted in the course of the Commission's review.

The Hawaiian Homes Trust. A similar Federal-State Task Force is now completing a review of the Hawaiian Homes trust. This effort was prompted by an initial report of the Civil Rights Commission indicating that a breech of trust may have occurred in the administration and management of these lands.

As constituted, this Task Force will submit its findings and recommendations to the Governor of the State of Hawai'i and the Secretary of the Interior.

Specific Congressional concerns and possible actions, however, will not be considered by this Task Force. Thus, it is our intention, based on the mandate of this Commission and the intense interest expressed by Native Hawaiians, to address possible areas of Congressional review.

Social Concerns. The consequences of the overthrow of the Kingdom of Hawai'i by the United States are not confined to historical wrong or compensable claims for lost anchestral land rights and interests.

Dispossession and defeat also have psychological, social and cultural consequences for Native Hawaiians. By all major social indices -- health, education, employment, income -- Native Hawaiians display distinct disparaties with their fellow citizens.

Health Concerns. The impact of Western diseases on Native Hawaiians was historically devastating. Waves of epidemics reduced the estimated contact population of 300,000 in 1778, to 34,000 by 1893. The implications of this decimation have been considered in a variety of contexts.

Western observers, beginning in 1838, noted that unless some dramatic improvement were made in the health conditions of Native Hawaiians that the race would disappear. These initial feelings of horror and dismay over the fatal impact of Western contact gradually altered.

After the publication of Darwin's *Origin of Species*, Europeans and Americans began to adopt the attitudes and policies of Social Darwinism. The theory of "the survival of the fittest" was applied to nations, and validated Western expansion and imperialism as the natural working out of an inevitable progression of conquest and colonization.

Acquired immunity and intermarriage among Native Hawaiians, however, was reversing this trend. Demographic trends now indicate that the population had reached its lowest level in the final decade of the 19th century, would stabilize for about twenty years, and then begin a dramatic recovery.

Today's Native Hawaiian population numbers an estimated 175,000 individuals, more than half of whom are less than 19 years old.

The health characteristics of this group, however, are adversely and consistently affected by mental health disorders, stress-related diseases, and an absence of culturally-sensitive health professionals.

As developed in depth within the body of this study, the following findings are offered:

- the psychological despair and sense of being a conquered people in their own homeland is a factor in the health conditions of Native Hawaiians;
- Native Hawaiians have the lowest life expectancy of any ethnic group in the State of Hawai'i: 67 years compared to a Statewide average of 74 years;
- the leading causes of death for Native Hawaiians, in order of prevalence, are heart diseases, cancers, stroke and accidents;
- Native Hawaiians have the highest infant death rate in the State of Hawai'i: 14 per 1,000 live births compared to a statewide average of 10 per thousand;
- mental health assessments indicate that Native Hawaiians have a higher-than-expected incidence of personality disorders, mental retardation, and drug abuse than their proportion of the population; and
- suicide rates among Native Hawaiian males (statistics are unavailable for females) is the highest in the State of Hawai'i: 22.5 per 100,000 in the population, compared to a rate of 13.5 for males of all races in Hawai'i -- rates in the 20-34 year age group of Native Hawaiians was even higher.

Native Hawaiians continue to experience a form of fatal impact usually associated with the last century. Neither Hawaiian nor Western medicine has effectively halted the damage.

Educational Concerns. In the perceived needs assessments conducted by Alu Like, Inc., and additional polling done by the University of Hawai'i, education has consistently received top priority among Native Hawaiians as an identified need.

These surveys and accompanying in-depth interviews contradict the impression often conveyed among professional educators that Native Hawaiian performance in schools is a consequence of not caring about or actively endorsing education by Hawaiian families.

A number of independent studies, particularly the extensive research published by John Gallimore, substantiate that:

- Native Hawaiian children are raised with culturally-distinctive values, behaviors, and styles; and
- that these differences, unless recognized and accomodated, are in conflict with dominant Western modes.

The Bishop Estate and Kamehameha Schools have recently completed a comprehensive Native Hawaiian Educational Assessment Project. Their report has been submitted to U.S. Secretary Bell of the Department of Education. We wish to include their report, findings and recommendations by reference.

Certain salient findings of this Commission are offered in addition:

- 30% of the school-age population of the State of Hawai'i is Native Hawaiian;
- Native Hawaiian students have the highest rates of academic and behavioral problems in the State, the highest levels of absenteeism, and the lowest levels of performance and achievement; and
- only 4.6% of all adult Hawaiians over 25 years of age have completed college, compared to a Statewide average of 11.3%, and only 12.3% have had "some college" compared to a Statewide average of 15.6%.

Employment and Income. Directly correlated to educational achievement are employment and income statistics. Also a factor in these areas are family size and the large number of Hawaiian families with a female or single parent head-of-household:

- nearly 30% of all Native Hawaiian families fall below the poverty line;
- Native Hawaiians are disproportionately represented in blue-collar occupations, and under-represented in technical or managerial positions;
- Native Hawaiians are significantly over-represented in unemployment benefit and Aid to Families with Dependent Children programs.

RECOMMENDATION #4

Based on the findings in all of the social categories, Native Hawaiians demonstrate the same distinct disadvantages experienced by other indigenous poeples of the United States. Congressional recognition of this unique attribute has resulted in the passage and implementation of Native American programs. Presently, Native Hawaiians are not consistently included in these efforts.

Therefore, we recommend:

- the inclusion of Native Hawaiians in all Native American programs, without prejudice;
- a concerted study by federal and state professionals to adequately assess the needs of Native Hawaiians, and to provide additional assistance from existing programs;
- the consideration of special Native Hawaiian programs at the federal level to redress these disadvantages.

★ Summary Of Written Comments Received By The Commission

The official comment period for the Draft Report of Findings of the Native Hawaiians Study Commission (published on September 23, 1982) ended on January 23, 1983. The initial deadline for comments on the Draft Report was November 23, 1982, but it was extended an additional 60 days at the request of several native Hawaiian groups and individuals. By May 1, 1983, the Native Hawaiians Study Commission had received almost 100 written comments on its Draft Report of Findings. All of these written comments are reproduced in full, as required by statute, in the next section of this Appendix. Many of the comments were used in revising the text of the Commission's Draft Report; these comments are referenced in the text where they were used. This summary specifically addresses those comments received by the Commission before February 10, 1983, that, while they were taken into account in the revision, were not specifically used or referenced in the text of the Commission's Final Report. Examples of specific comments that illustrate the points summarized here are given in the footnotes of this section.

The Commission received numerous comments from individuals and organizations requesting an extension of the Commission's original sixty-day deadline for public comments. 1/ Comments cited problems of limited access and availability. To accommodate those who wished to comment, while at the same time meeting its statutory deadline for submission of the Final Report, the Commission extended the deadline for public comment by an additional 60 days, as noted above.

In general, the Commission's Draft Report received mixed reviews. Some commenters called for a "second opinion," 2/ labelled the report a "cursory statement" that should be put on hold, 3/ or called for the report to be rewritten in its entirety. On the other hand, others thought that at least parts of the report were fairly well researched, very informative, 4/ and exhibited a satisfactory degree of competence and objectivity. 5/

One criticism that reappeared several times had to do with "bias." Some writers commented that the descriptions of Hawaiian culture and history had been written from a Western perspective and were therefore biased. 6/ Use of statistics in the report was also thought to be biased by some commenters. 7/ Others stated that because it is a politically-appointed body, the Commission may not be totally objective. 8/ Several comments also noted that the Government "responsible" for the present native Hawaiian situation could not objectively recommend a resolution. 9/ One comment 10/ suggested that to obviate this bias, the Commission should have a majority of native Hawaiian members with the remainder from the non-government sector. [It should be pointed out that Public Law 96-565 specifically states that "not more than three" of the nine commissioners may be residents of the State of Hawaii.] Still another comment suggested that a "mini non-government-member" commission be created to deal with the issue of reparations to be composed of representatives of the minority races of the United States. 11/

Other comments dealing with the bias issue criticized the "kid-glove" treatment King Kalakaua received in the Draft Report. 12/ Many comments alluded to white racism against native Hawaiians and at least one 13/ remarked that the report should mention more of the "good" that the white people have contributed to Hawaii.

The Commission attempted to address these charges of bias as the report was re-drafted. Considerable revisions were made in the text to reflect "both sides of the story," based on written comments received by the Commission and citing specific comments where appropriate.

The sources used in preparing the Commission's Draft Report were also criticized. Some comments criticized authors used as "sympathetic to the white side" 14/ and others criticized the limited use of primary sources of information. 15/ To address this problem, sources suggested by comments were used in revising the report where possible. In addition, a comprehensive list of references has been included in the Commission's Final Report 16/ to assist readers of the report in further study of the issues presented here.

The Commission received many comments discussing the omission of the culture and religion sections from the Draft Report. 17/ Other comments voiced concern about the protection of native Hawaiian religious rights. 18/ The Commission's Final Report does contain sections on culture and religion, written by native Hawaiian authors.

The Commission received a great number of comments discussing the historical basis for the Commission's legal findings. Many writers disputed the Draft Report's historical analysis, stating that it:

- Contained inaccuracies; 19/
- Did not give sufficient weight to the native Hawaiian side of the story; 20/
- Failed to emphasize the importance of the role of U.S. military force in the overthrow of the monarchy; 21/ and
- Minimized the role of U.S. Minister John Stevens. 22/

Other comments discussed the statements and actions of President Grover Cleveland after the overthrow as a basis for U.S. Government culpability. 23/

Writers cited the above issues 24/ and others, including present deficiencies of native Hawaiians, 25/ to justify the payment of some type of restitution or reparations to the native Hawaiian people. 26/ Some comments stated that if there is no legal right to such claims under present law, the U.S. Congress should pass legislation creating such a right. 27/

Comments received by the Commission present a wide variety of ideas on how a program of restitution could be implemented. With regard to return of lands, the Commission received 18 newspaper cut-outs from the Hawaiian News (October 1982) asking the Commission to: "Please demand that the U.S. Congress return all of the 144,000+ acres of ceded lands (according to Public Law 88-233) to the State of Hawaii immediately!" 28/ Among the proposals received on types of restitution are that:

- There be no monetary payment, the Federal Government should purchase parcels of land in Hawaii, turn them over to the State, which would use some of the land for State parks and entrust the larger parcels to the Office of Hawaiian Affairs to be kept as wildlife sanctuaries. 29/
- Compensation should consist of reparations in the form of return of all Crown lands, and restitution in the form of restoring the sovereignty of

the native Hawaiian people. 30/ (The Commission also received other comments on restoring sovereignty. 31/)

- There be no monetary payment but that a "Hawaii Integrated Fleet Support Industry" program be created that would help native Hawaiians financially by creating new jobs. 32/
- That native Hawaiians be given an unencumbered land base from which revenues could be generated for deposit in a treasury; this treasury would then determine priorities for addressing native Hawaiian deficiencies. 33/
- Using monetary reparations payments to create educational, training, and cultural programs. 34/

The Commission also received comments criticizing the Federal Government for: pursuing a policy of genocide against native Hawaiians; 35/ using the island of Kahoolawe for bombing target practice; 36/ occupation by the U.S. military of land in Hawaii without paying rent; 37/ and, not exploring a possible breach of trust against the State of Hawaii relating to the Hawaiian Home Lands program and the Hawaii Admissions Act. 38/

On the Hawaiian Home Lands program, one writer stated that a further discussion beyond the Inspector General's report was necessary. 39/ Another writer disagreed with the suggestion in the Draft Report (page 314) that homestead applicants who reject homestead sites be assigned a lower preference priority on the list of applicants and that they be dropped from the listings after a reasonable number of rejections. This writer suggested instead that a family be notified one year in advance of the homestead site availability in order to make the necessary arrangements to move to another island or find other employment, if necessary. 40/

Commenters also sent to the Commission several articles and publications. Among them are:

- The Sandalwood Trees; Politics and Hope, by Louis Agard; 41/
- Hawaiian Reparations: Nothing Lost, Nothing Owed, by Patrick W. Hanifin; 42/
- Sovereignty and Land: Honoring the Hawaiian Native Claim, by Melody K. MacKenzie; 43/
- The Crown Lands of Hawaii, by Thomas Marshall Spaulding;
- A three-part capsulized history on U.S. involvement in the overthrow of the Hawaiian monarchy by Wayne K. Westlake; 44/
- Three magazine articles written in 1893 on the pros and cons of annexation of Hawaii to the United States; 45/ and
- Six papers written at the direction of, funded and submitted by the Office of Hawaiian Affairs:
  - --Health Section of Native Hawaiians Study Commission Report, by Richard Kekuni Blaisdell, M.D.; 46/
  - --Religion Section of Native Hawaiians Study Commission Report, by Rubellite K. Johnson; 47/

--Language Section of Native Hawaiians Study Commission Report, by Larry L. Kimura; 48/

--The Demise of the Hawaiian Kingdom: Its Psycho-Cultural Impact and Moral Legacy, by Ramon Lopez-Reyes; 49/

--Regarding the Legal Aspects, by Melody MacKenzie and Jon Van Dyke; 50/ and

--An Historical Over-View of Hawaii: Pre-Contact to the Present, by Haunani-Kay Trask. 51/

APPENDIX

NOTES

1/ See, for example, comments received from: George R. Ariyoshi, Governor of State of Hawaii; Gard Kealoha; Brooke Trotter; M. Ho'oipo DeCambra; and Herbert Jay (Nahaolelua) Almeida.

2/ Comment received from Charles Trembath, p. 1.

3/ Comment received from The Rev. Abraham K. Akaka, p. 2.

4/ Comment received from Mrs. Violet Ku'ulei Ihara, p. 1.

5/ Comment received from Robert C. Schmitt, p. 3.

6/ See, for example, comments received from: Congressman Daniel K. Akaka, p. 1; Alexander H. Raymond, p. 1; and Everett Kahiliokalani "Sonny" Kinney, p. 7.

7/ Comments received from Michael Tancayo, p. 1; and Haunani-Kay Trask, et al, p. 7.

8/ See, for example, comments received from Congressman Cecil Heftel, p. 1.

9/ See, for example, comments received from Poka Laenui, p. 2.

10/ Comment received from Haunani-Kay Trask, et al, p. 2.

11/ Comment received from Michael Tancayo, p. 2.

12/ Comments received from Elmer Miller, p. 6; and Kenneth Smalley, p. 1.

13/ Comment received from Kenneth Smalley, p. 1.

14/ Comment received from Alexander H. Raymond, p. 1.

15/ See, for example, comments received from: Wayne K. Westlake, p. 1; Pauline N. King, p. 1; Congressman Daniel K. Akaka, p. 2; Violet Ku'ulei Ihara, p. 1.

16/ Suggested in comment received from Congressman Daniel K. Akaka, p. 2.

17/ See, for example, comments received from: Bill Kama, p. 1; John J. Hall, p. 1; Pualani Akaka-Kallstrom, p. 1; Marion K. Morrison, p. 1; Kawaipuna Prejean, p. 2; Kenneth C. "Keneke" Chan, p. 2; and Joseph G. Kealoha, Jr., p. 1.

18/ See, for example, comments received from Haunani-Kay Trask, et al, p. 4; and Kenneth C. "Keneke" Chan, p. 2.

19/ See, for example, comments received from Arthur B. Chun, p. 1.

20/ See, for example, comments received from Keith S. Abe, p. 1.

21/ See, for example, comments received from Clarence K. Kamai, p. 1; and Moanikeala Akaka, p. 1.

22/ See, for example, comments received from Tim Newstrom, p. 3; and John Dominis Holt, p. 1.

23/ See, for example, comments received from Moanikeala Akaka, p. 1; Arthur B. Chun, p. 3; and John Dominis Holt, p. 1.

24/ See, for example, comments received from Bill Kama, p. 2; John M. Agard, Enclosure 1, p. 1; and Kawaipuna Prejean, p. 3.

25/ Comment received from John M. Agard, Enclosure 1, p. 1.

26/ See, for example, comments received from Bill Kama, p. 2; and John Dominis Holt, p. 1.

27/ Comments received from Richard Lyman, Jr., p. 1; and Louis Agard (dated 11/22/82), p. 1.

28/ See also comments received from Val (Al Dyeing and Carpet Cleaning, Inc.); and Tim Newstrom, p. 4.

29/ Comment received from Kevin J. Lopes.

30/ Comment received from Charles Trembath, p. 2.

31/ See, for example, comments received from He Hawai'i Makou, p. 2; K. Hakakona; and Kaolelo Lambert-John Ulaleo, p. 4.

32/ See comment from Wayne Thiessen.

33/ See comment from John M. Agard, Enclosure 1, p. 2.

34/ See comment received from Georgette Kala.

35/ See comments received from: He Hawai'i Makou, p. 1; Kawaipuna Prejean, p. 3; and Everett Kahiliokalani "Sonny" Kinny, p. 6.

36/ See, for example, comment received from Mayleiday M. Van Ostrand.

37/ See comment received from Kawaipuna Prejean, p. 4.

38/ See comment received from Clarence K. Kamai.

39/ See comment from Haunani-Kay Trask, et al, p. 4.

40/ See comment received from Bill Kama, p. 3.

41/ Submitted by John M. Agard.

42/ Received from Patrick W. Hanifin.

43/ This report was received from the Office of Hawaiian Affairs before the publication of the Commission's Draft Report of Findings. Therefore, it is not reproduced in the Appendix with the other comments received by the Commission in response to its Draft Report.

44/ Received from Wayne K. Westlake.

45/ Submitted by L. L. (Bud) Henry.

46/ Part of this paper, "Historical and Cultural Background," is reproduced in its entirety in this Report, in the chapter entitled, "Health and Social Services." The entire paper appears in the Appendix.

47/ The chapter in this Report entitled "Native Hawaiian Religion," is a reproduction of this paper, in its entirety.

48/ This paper is reproduced in its entirety in the "Language" section of this Report, in the chapter entitled "Native Hawaiian Culture."

49/ This paper is referenced in the text of this Report, and appears in its entirety in the Appendix.

50/ This paper is referenced in the text of this Report, and appears in its entirety in the Appendix.

51/ This paper is referenced in the text of this Report, and appears in its entirety in the Appendix.

Written Comments Received By Native Hawaiians Study Commission[*]

LIST OF COMMENTERS

Keith A. Abe

John Agard

Louis Agard (November 22, 1982)

Louis Agard (January 24, 1983)

Joshua C. Agsalud (Hawaii State Department of Labor and Industrial Relations)

The Rev. Abraham K. Akaka

Daniel K. Akaka (Member of Congress)

Moanikeala Akaka

Pualani Akaka-Kallstrom

Herbert Jay (Nahaolelua) Almeida

Mrs. Beatrice Kulia-Ika-Nuu Anderson

George R. Ariyoshi (Governor, State of Hawaii)

Lloyd Aubry (U.S. Department of Labor)

Richard Kekuni Blaisdell, MD (January 12, 1983)

Richard Kekuni Blaisdell, MD (for the Office of Hawaiian Affairs)

Thomas A. Burch, MD (Hawaii State Department of Health)

Kenneth C. "Keneke" Chan

Colonel Arthur B. Chun

Charles G. Clark (Hawaii State Department of Health)

M. Ho'oipo DeCambra

Vicki Elmer (U.S. Department of Housing and Urban Development)

K. Hakakona

John J. Hall

Patrick W. Hanifin

Cecil Heftel (Member of Congress)

Ralph L. Heidenreich

Bud Henry

John Dominis Holt

Mrs. Violet Ku'ulei Ihara

Daniel K. Inouye (U.S. Senator)

Rubellite K. Johnson (for the Office of Hawaiian Affairs)

Georgette Kala

Bill Kama

Clarence K. Kamai

Kawehi Kanui-Gill

Joseph G. Kealoha, Jr. (Office of Hawaiian Affairs)

Gard Kealoha

H. K. Bruss Keppeler and Allen W. Woodell

---

[*] All written comments received by the Commission appear in the following pages, in alphabetical order as listed here.

Larry L. Kimura (for the Office of Hawaiian Affairs)

Pauline N. King

Everett Kahiliokalani "Sonny" Kinney

Hideto Kono (Hawaii State Department of Planning and Economic Development)

Pōkā Laenui (also known as Hayden F. Burgess)

Kevin J. Lopez

Ramon Lopez-Reyes (for the Office of Hawaiian Affairs)

Richard Lyman, Jr.

Melody MacKenzie (for the Office of Hawaiian Affairs)

Melody MacKenzie and Jon Van Dyke (for the Office of Hawaiian Affairs)

Mahalo Nui Loa

Mrs. Victoria Mews

Willard H. McGuire

Elmer Miller

Marion K. Morrison

Tim Newstrom

Georgiana K. Padeken (Hawaii State Department of Hawaiian Home Lands)

George T. H. Pai

Kawaipuna Prejean

Alexander H. Raymond

Everett R. Rhoades, M.D. (U.S. Department of Health and Human Services, Indian Health Service)

Jerry L. Rogers (U.S. Department of Interior, National Park Service)

Helena K. Wilcox Salazar

Kenneth Smalley

Thomas Marshall Spaulding (article by)

Robert C. Schmitt (Hawaii State Statistician)

Franklin Y. K. Sunn (Hawaii State Department of Social Services and Housing)

Michael Tancayo

Wayne C. Thiessen

Donnis H. Thompson (Hawaii State Department of Education)

Rory Soares Toomey

Haunani-Kay Trask (November 23, 1982)

Haunani-Kay Trask (for the Office of Hawaiian Affairs)

Charles Trembath

Brooke Trotter

Kaolelo Lambert-John Ulaleo

Mitsuo Uyehara

Val (Dyeing & Carpet Cleaning Inc.)

Ms. Mayleiday M. Van Ostrand

W. Kaumualii Westlake (October 10, 1982)

W. Kaumualii Westlake (November 7, 1982)

M. K. Whitford

Andrew White and Leonard Kwan, Jr.

Toni Auld Yardley

KEITH S. ABE
2003 Kalia Rd. Apt 5B
Honolulu, HI 96815

October 1, 1982

KINA'U BOYD KAMALI'I
500 Unversity Ave. Suite 1601
Honolulu, HI 96826

Dear Kina'u:

RE: NATIVE HAWAIIAN STUDY COMMISSION REPORT

The September 24 ADVERTISER headline read: HAWAII REPARATIONS No Legal Rights Found.

I am prompted to write because historically there is basis for legal rights. I refer to King Kamehameha III's Great Mahele and the land grant he created for the Makaainana.

The Great Mahele of 1848 divided the 4,050,000 acres of Kingdom of Hawaii land in three ways: 1/3 for the King; 1/3 for the Chiefs, and 1/3 for the commoners.

It is important to note that the King designated 50% of his share as Crown Lands, for his personal and private use, and 50% as Government Lands for use and development by the Makaainana, the common people. To be certain that the Government Land would be used for the benefit of his people, Kamehameha III [illegible] trustees to administer the land trust. The original trustees were composed of 4 Cabinet officers, 1 member of the House of Nobles, 1 member of the House of Representatives, 1 Justice of the Supreme Court and 1 layman.

Another important point: one condition for ownership of the land by the commoners was that each had to file claim through the courts for his kuleana. Of the 100,000 or so eligible commoners, only 11,309 took the trouble to claim title. The record shows that the total acres claimed by the Makaainana came to a little over 30,000 acres, out of a possible 1,335,000 acres. What happened to the unclaimed 1,305,000 acres? They reverted back to King Kamehameha III who set them aside as part of the Government Land he had created. Now add that 1,305,000 acres to the original 667,500 designated as Government Land by King Kamehameha III and you get a total of 1,972,000 acres to be held in trust for the Makaainana.

A third vital point: During the reign of Kamehameha V, an Act of January 3, 1865 made the Crown Lands non-transferable and inheritance of said Crown Lands was limited to the heirs and successors of the Hawaiian crown.

Now, when the rebel Committee of Safety overthrew Queen Liliuokalani and formed the Provisional Government, it arbitrally claimed title to all lands. It made no distinction between Crown Lands and GOVERNMENT LANDS.

Now I stand to be corrected, and your Commission should know the answer to this, but I have never read or heard the Media report the foregoing facts about the Goverment Lands of King Kamehameha III or the Act of 1865 relative to the Crown Lands at the hearings you conducted. As a laymen interested in justice for the native Hawaiians, I would think it would be in order for the NATIVE HAWAIIAN STUDY COMMISSION to research and determine whether the above referenced documents exist, and if so, use them as legal grounds to obtain reparations for native Hawaiians.

Manaolana for the best,

Sincerely,

Keith S. Abe
Keith S. Abe

cc:Walter Ritte

NOV 2 [illegible] Rec

The CONGRESS of the HAWAIIAN PEOPLE
98-1364 AKAAKA STREET / AIEA, HAWAII 96701 / PHONE [illegible]

20 November 1982

Native Hawaiian Study Commission
P. O. Box 50247
Honolulu, Hawaii 96850

Dear Kinau:

The Congress of The Hawaiian People recently reviewed the "draft" copy of findings produced by the Native Hawaiian Study Commission. In all honesty, we were sincerely displeased with its content (especially Chapter III).

Concluding statements in Chapter III indicated that existing law provide no basis for return of loss lands or sovereignty. If this is in fact true as stated, then on this point alone, we submit that the Hawaiian Community leaders require more time to adequately develop legal arguments in order to draft laws that will properly address our loss. It is our considered opinion that in all fairness to our people, we should not be forced into a quick or careless response that may forever destroy our chances of obtaining a fair settlement. Therefore, we violently object to the 60-day response provision. We request an extension of at least 180 days from the established date of 23 November 82.

The Congress of The Hawaiian People has included two enclosures which according to Congressional mandate, must be attached to the "draft" report. Enclosure (1) is entitled "Determinations" which reiterates our concerns not found in the report. Enclosure (2) is a published document authored by our member, Louis K. Agard Jr. It presents an opposing point of view on the matter of a fair settlement which must reach Congress along with the debatable findings of the Commission.

We will always be available for further discussions on this critical matter.

Aloha Pumehana,

John M. Agard
John M. Agard
State President

JMA/ma
Enclosures

Determinations

Native Hawaiians desire to achieve several points of agreement.

1. That they suffer several deficiencies as a group.

2. These deficiencies can be related to particular events, i.e. overthrow of 1893, annexation and Statehood.

3. Native Hawaiians settled the archipelago as aboriginal people and enjoy certain rights.

4. Native Hawaiians have never negotiated away or been compensated for any of their lands or rights.

5. Native Hawaiians seek to reactivate and reestablish their original priveleges.

6. The armed intervention of 1893 resulted in the suspension of native Hawaiians rights and priveleges.

7. The armed intervention of 1893 must be recognized for what it was in order to begin correcting the errors committed during and subsequently.

8. As aboriginal people and by the declaration of Kamehameha I all of the lands of Hawaii were held in common.

9. Kamehameha III under the Constitution of 1840 and the creation of the Land Commission identified the tenants or common peoples land share as one third of the entire kingdom.

10. The Kuleana Act further defined the common peoples interests and a process that could be followed to acquire fee title to the land. The act only carved out a small portion of the common peoples interest by awarding 28,000 acres out of a potential total of 1.3 million acres.

11. The common people are entitled to the one third share of the kingdom earlier identified and protected under the constitutionl law which declared, "nothing whatsoever shall be taken from the citizens without due process of law".

12. The overthrow of 1893 subjugated a popular native government and therefore was illegitimate.

13. An illegitimate government ceded the ancestral lands of native Hawaiians in a quit claim action. The ceders could not warrant title to the lands ceded and title did not pass.

Enclosure (1)

Determinations -[illegible]

15. The ceded lands were described as "not government lands as government lands in the United States and congress would legislate special laws for these lands at some future time." In essence what passed from the Republic of Hawaii in the ceding ceremony was the administration of the native lands not necessarily title by a bilateral agreement.

16. Who owns the ancestral lands of Hawaii? The ancestral lands have never been negotiated away or the native interest satisfied.

17. Because the native interest has not been negotiated away the native Hawaiian can administer the lands granted to his ancestors by the land division of 1845. The descendents today can generate revenues from the ancestral lands now held in common by the descendents for deposit in a treasury. This treasury can determine the prioritier for native Hawaiians to address the deficiencies they now suffer. A land base for native Hawaiians comprised of the ancestral lands is an "unencumbered" land base.

18, Native Hawaiians enjoyed self sufficiency for centuries up to 1893. They were subjugated in 1893 remained hostage for several years thereafter and subsequently have had their assets and income held in a state of suspension since. Native Hawaiians endeavour to regain their former self sufficiency and eliminate their deficiencies by utilizing a treasury generating revenues from their ancestral lands based on a system of prioritizing.

PROLOGUE

There is much that has been written about Hawaii, much of it detailed and well researched. This review is only a brief recounting of events starting at the beginning with the Kumulipo and on into the present. The review samples specific events to convey some idea of the tenor and the sense of the times. The scope of time this review covers makes a detailed analysis not practical. It presents some approaches for thought and perhaps it will be found to be debatable, which is how it should be. This is written for all the grandchildren who may someday want to know what happened and what was taken away. What was taken: loyal native and non-Hawaiian subjects lost their freedom to select a preferred lifestyle by being arrested and jailed; they lost their jobs and status; they were required to support a government by a few in the oligarchy and to take the oath of allegiance; many were held in [illegible] or unable to vote for many years. The overthrow of 1893 was not a popular uprising, rather a conspiracy against a superior number of non-Hawaiians including many Caucasians, not to mention the majority of native Hawaiians. The wonder is how such an illegitimacy could take place and then be perpetuated for so long.

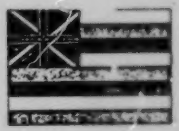

TABLE OF CONTENTS

Page

Creation 4
The Kumulipo
Native Hawaiian Interest 6
Tamehameha (Kamehameha I) 6
Captain Cook 7
Liholiho (Kamehameha II) 7
Kauikeaouli (Kamehameha III) 8
Constitution and Natives 9
Foreign Intervention 9
Mahele (Land Division) 10
Kuleana (Land Grant) 12
Attempted Annexation 13
Alexander Liholiho (Kamehameha IV) 14
Lot (Kamehameha V) 15
Labor and Supply 16
Lunalilo 16
Kalakaua 17
Committee of Thirteen 17
Queen Liliuokalani 18
Annexation Club 19
Committee of Safety 19
Allegations 22
Proclamation 22
Interregnum 25
President Cleveland 27

- 2 -

Table of Contents

Page

Minister Stevens 27
Request for Assistance 28
Treasonable Persons 29
Pseudo-Hawaiians 29
Sense of the U.S. Congress 30
Treason 31
Subjugation 33
Morgan Report 33
Transfer of Sovereignty 33
The Best Government on Earth 34
Annexation 36
Hawaiian Investigations 38
Plot Review 39
Land Administration 42
Rapid Development 43
Illegitimacy 43
Actions and the Law 43
Prince Kuhio of the Hawaiian Homes 44
The Political Party 45
Politics and Behavior 46
Labor Strikes and Repression 47
Education 48
Land Control 49

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Table of Contents

Page

Racism 52

Path of Statehood 53

Related Events 54

Health 55

Aftermath 55

Sovereignty and Treaties 56

The 49th Versus the 50th State 58
Points to Ponder

Litigations 59

Discrimination 60

Intent and Precedent 61

Reparations 62

Option 63

Epilogue 64

Acknowledgements 66

Bibliography 67

References 68

Exhibits

HAWAII SANDALWOOD TREES

There is a story of how a fragrant and desirable tree nearly caused its own destruction. That tree is the sandalwood tree, so avidly pursued in the past that it was to border on extinction. The forests of old Hawaii were stripped of the fragrant trees. "I Hawaii Au" (I am Hawaii) are the people of old Hawaii. The Hawaii of yesterday and "I Hawaii Au", its people, are symbolically and joined together by a parable.

There are native Hawaiian chants of creation in the Kumulipo and the Pelilia. These chants tell of old Hawaii's creation. There are descriptions in the mele of ancient Hawaii of "I Hawaii Au". What can be seen is that native Hawaiians were an organized society attuned to their environment and were self sufficient. They were close to and respected their provider, the aina, or land.

Native Hawaiians had survived for generations and did not know of Christianity. They were a people docile and generous to a fault. They shared as they must, and learned to survive with limited resources. Captain Cook described native Hawaiians as industrious, and a happy, healthy people which was attested to by their large numbers - approximating 300,000 to 500,000 individuals. For many generations they had flourished without outside influences. When native Hawaiians are studied one hundred years after Cook's arrival the question arises, what happened? They were in a poor state. Ravaged by disease, they were described as a people living in squalor and reduced in numbers so as to be said not fit to manage their own affairs. Many later accounts of native Hawaiians were extremely critical and many demonstrated the lofty attitude of the authors. We can ask, were these problems generated by natives themselves or, like the sandalwood, were they being overexploited? Some sandalwood trees survive and still grow today, and there is hope that in time the tree of old Hawaii and its people can flourish again as before.

SUMMARY

A summary of events before, during and after the overthrow of 1893 follows. It is notable in this review that some historians [illegible] rather consistently.

When native Hawaiians are studied, some things are obvious. They were dependent on land to survive physically and spiritually. The continued needs of a land base for existence was recognized by the Hawaiians as a national group, and out of this need their system of land allocation and land succession was developed.

This land succession was outlined in the declaration: "Kamehameha I, was the founder of the kingdom, and to him belonged all the land from one end of the islands to the other, though it was not his own private property. It belonged to the chiefs and people in common, of whom Kamehameha I was the head, and had the management of the landed property." Another native Hawaiian declaration continued with the intent that the landed property shall "descend to the heirs forever".

It is also evident that native Hawaiians had steadfastly maintained that there would be no sale of lands or cession of lands for any amount or consideration. At the same time native Hawaiians expressed that independence should be preserved. Many times both directives were implied simultaneously. Under Kamehameha I, land holdings of chiefs and even foreigners were revocable. In 1826 the first lease of 50 years was given to Ladd and Company. By 1837 foreign men-of-war attempted to enforce land ownership upon native Hawaiians. Then in 1841 Kamehameha III sought to forestall conflict with foreigners by again offering 50 year leases. The seizure of Hawaii in 1843 by a British frigate was over a land lease dispute. It was in 1845 that the natives of Molokai and Maui protested the acquisition of lands by foreigners to the king. Kamehameha III in 1854 was to declare after the put down of the first annexation crisis, "my independence is more firmly established than ever before".

Kamehameha IV in 1857 attempted to develop the principle that all nations should respect Hawaiian independence. In 1867 Kamehameha V advised the American resident minister McCook, "it is useless to talk of purchasing a portion of these islands as they are not for sale". At this same time native Hawaiians opposed new discussions on reciprocity, fearing that such a treaty would lead to annexation. Many times Kamehameha V would state his firm resolve to maintain the independence of the kingdom. Simultaneously, Charles R. Bishop, husband of High Chiefess Bernice Pauahi, wrote, "the Hawaiian government and people are, at present, opposed to annexation whatever may be said or printed to the contrary". In 1872, during the reign of Lunalilo, Hawaiian public opinion against the idea of annexation or cession of any territory was strengthened. During the reign of Kalakaua this position was reaffirmed, opposing cession of any territory in any way for any purpose.

During Liliuokalani's reign, native Hawaiian members of the legislature again asserted that no consideration of any kind would purchase one inch of Hawaiian soil, for the autonomy of Hawaii would be endangered otherwise. The Native Sons of Hawaii, a Hawaiian organization resolved to preserve Hawaii's national independence and institutions, strongly opposed annexation. Throughout their national history native Hawaiians have exercised their basic right to refuse to sell their common land, acknowledging their land, the aina, as the basis upon which their nationhood stood. Native Hawaiians have been consistent in opposing common land sales and thus maintaining their governing powers.

Finally, the Queen, Liliuokalani, representing the native Hawaiian government was tricked and coerced into submission by planned events. During the overthrow of the legitimate, de facto Hawaiian government, the Queen under protest yielded her authority to the forces of the United States until such time as the United States would, "upon the facts being presented to it undo the acts and reinstate her in the authority she claimed as sovereign."

Throughout Hawaiian history, foreigners have desired to own and control native lands. Plantations were a lucrative business; their numbers multiplied and they soon spread to cover all the islands. Investors and speculators enjoyed increasing profit on an ever expanding scale as the demand for Hawaiian agricultural products rose. There were handsome profits indeed tilling the land using the original cheap labor, "kanaka labor", until operations became so large in the pursuit for profits that the "kanaka labor" could not supply the great demand for labor. Native Hawaiians declined in numbers in this exploitive atmosphere while their assets were taken over, until finally they became a minority in their own land.

Not only did plantation owners enjoy prosperity in Hawaii, but so did many others who came as individuals and in groups to make a new life. Even the spread of the gospel proved successful, and ultimately profitable. The need for a circle of military buffer zones acquired from Alaska to Hawaii and on to the Panama Canal was affirmed on December 7, 1941 when Hawaii was to absorb the impact of an attack on the Day of Infamy and spare the other parts of the nation a similar fate. The importance of Hawaii land for military uses and for commerce predominated over the native use and in so doing overlooked the native Hawaiian welfare.

What is apparent is that the desires of foreigners have eventually prevailed and by illegal means they had gained control of the lands and assets and treasury of the native Hawaiian government. They accomplished this by clever legal moves of a unilateral nature and by violations of international rules of conduct. These irregularities have been contested by native Hawaiians. After the Queen had yielded, the president of the United States, Grover Cleveland, ordered an investigation. Later he advised the restoration of the Queen and her government with proper reparations. There has been no resolution to date, although the issues are still the same as initially expressed by President Cleveland, and that is, restoration and proper reparations.

What does all this mean to native Hawaiians today? First, if the declared intent of the native Hawaiian predecessors is to be observed as a will or a sacred trust, then a course of action is evident: There are to be no sales

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of common lands nor any loss of self determination. There has never been a need, then or now, to sell the homeland. This is contrary to [illegible] that has been said, including the report of the Congressional Research Service of 1978, which suggests that since all the lands of Hawaii are assigned, a monetary settlement for the taking of Hawaiian land can be made. To carry out the implication of the Congressional Research Service report would in effect separate and alienate the native Hawaiian from his birthright and inherent interest in his native homeland.

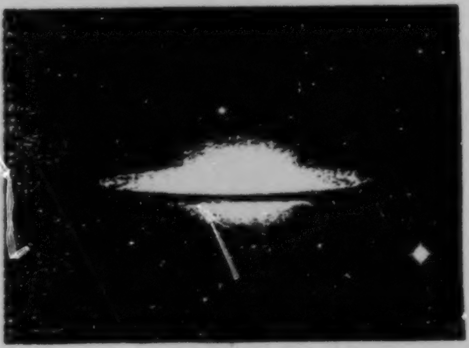
The native Hawaiian has little choice under the circumstances of continued oversights of international law and denial of his rights than to pursue a course of restoration and to refute those actions which have been accomplished without his participation — mass naturalization, annexation and statehood, and the loss of his nationhood. Even the Admissions Act of 1959 failed to determine the native Hawaiian interest in the land as opposed to the state, and this deserves review. If there is shown to have been an oversight the Admissions Act should be repealed or amended.

Of interest is the congressional determination that the public lands in Hawaii after annexation would not be considered as public lands in the United States but that Congress would legislate special laws for these lands at some future time. Native Hawaiians have had little input into the matters of disposal of these lands up to the present; as usual decisions are made for them and they have had limited representation.

In the conversion of the native Hawaiian to Christianity, new rules of conduct were adopted. Moses delivered new rules of conduct when he came down from the Mount in the form of the Ten Commandments. In the tenth and last commandment, Moses was to direct "Thou shalt not covet". Native Hawaiians can wonder.

CREATION

The Kumulipo



("Beginning-in-deep-darkness")

Passed on orally from generation to generation from time immemorial the Kumulipo was the native Hawaiian creation chant. It spoke of the "Huge Mother Country", Kahiki Nui, that disappeared beneath the sea accompanied by earthquakes and tidal waves. All that was left were the mountain peaks to form the Hawaiian archipelago. The skilled High Temple priests of the Lono order preserved within the library of their minds the complete chant of thousands of words in the proper order. The High Priests ([illegible]) taught in the beginning there was only the night world of Po, darkness. And man descended as "mai ka Po Mai" or "We came from the Night World". The early missionaries misunderstood the meaning of this expression and interpreted it to mean Hawaiians originated in darkness with dark souls and evil ways and must be saved by the gospel.

Before the missionaries arrived in 1820 the native Hawaiians had already started to revise their religious practices. Into this transition period came the Boston missionaries brimming with zeal to convert the native Hawaiians. Every trace of Hawaiian religion was proscribed. What the missionaries failed to understand was that idols used by Hawaiians were mere representations of God, not gods themselves. In the same manner, the sculptured figure of Mary was a symbol of the Holy Mother and Catholics regard the cross as a representative of Christ. Also what the Puritan missionaries forgot was the reason they came to America was to escape religious persecution. Yet they would impose their beliefs upon native Hawaiians.

The High Temple priests possessed superhuman faculties earned after a strict period of discipline of at least twenty years or even a lifetime. They were capable of serving and communicating on solely a spiritual plane detached from all material things. The Hawaiian priests taught as Christ did, to prepare the soul for spiritual rewards in after life as opposed to material rewards in life on earth. The missionaries who came to Hawaii had no such extensive training to reach such a spiritual plane. The inability of this western religious sect to understand caused them to vehemently proscribe the Hawaiians' ancient religion which had roots of an older form than Christianity. With fanatical intolerance the Christianizing of Hawaiians created a gap between generations and destroyed the concept of nationhood and pride of identity for the descendants.

The Hawaiian language was an oral one; knowledge and teachings were kept in the minds and hearts of the people. In 1826 the missionaries, without the participation of any Hawaiians whose help was not wanted, determined the alphabet for the Hawaiian language of five vowels and seven consonants. They arbitrarily changed certain consonants of the language and with that the real meanings of many words and concepts. This activity, as minor as it seemed, began to contribute to a loss of knowledge. Many of the descriptions of old Hawaiian religion and its practices were by non-Hawaiians who attempted to understand the language and its finer implications. Hawaiian skilled at the play of words with subtle meanings caused investigators to interpret incorrectly Hawaiian meanings. Further, the Bible in their own language had no better message for the Hawaiians than they already enjoyed, but only demonstrated the power of the printed word. The printed word came to control the trusting Hawaiian and distorted his culture and traditions in the process.

Christianity did not uplift the Hawaiians to a higher spiritual level. Bigotry and intolerance of ancient Hawaiian religion helped cause the loss of knowledge kept for generations by the High Priests.(8) Hawaiians received no reward for being trusting; in fact it was quite the opposite.

NATIVE HAWAIIAN INTEREST

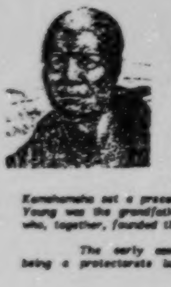
?

It is evident a change took place in Hawaii in 1893 to the detriment of native Hawaiians and other citizens of Hawaii at that time. A question is, why the concern now? Perhaps because what happened in 1893 has served to reduce the opportunities today and into the future for native people. If there is a choice to set the record straight and correct even partially the effects of 1893, resulting in losses and deprival, then efforts to do so are reasonable.

In late 1980 the Hawaiian Claims Study Commission legislation, P.L. 96-565, was passed by the U.S. Congress. This may have been partly due to the initial impetus provided by H.R. 1944 introduced in June of 1974 which was essentially a reparations claim. These two pieces of legislation may be identified as reparations measures. Ironically it can be asked, how can native people be naturalized owners without their consent in the annexation of 1898, and who are now additionally tax payers, now seek damages from themselves for damages suffered by themselves for the confiscation of their treasury and assets? It does not appear practical, even if possible. On the other hand, the Hawaiian Claims Study Commission recommendations could restore to those who are native descendants their identified interests for re-appropriation of treasury, lands and governing powers to direct their futures as desired.

The issue appears involved and difficult to resolve. Perhaps not so when observing the intent of native people of Hawaii as expressed through their leaders. The definition of a native Hawaiian is important to descendants. One definition is a lineal descendant without a blood quantum. It can be seen that in the Hawaiian government functions, there were no blood quantums necessary for participation. Blood quantums were to become an issue later under non-Hawaiian constitutions.

TAMEHAMEHA (KAMEHAMEHA I)



Tamehameah or Tamehameha (Kamehameha I) was aware of imperialism and colonization. To address this he sought an alliance with Britain, perhaps because the first arrivals were British explorers, Captains Cook and Vancouver. Vancouver gave Tamehameha prophetic advice, "Do not permit foreigners to settle in Hawaii. Only two should stay, Olohana (John Young) and Aikake (Isaac Davis). Most of the foreigners are men of bad character, evil-hearted, desiring to secure lands, but not the right people to dwell therein."(1) The two foreign advisers in Vancouver's reference, were non-native advisors who took native wives and became trusted chiefs with land privileges. By accepting these foreigners Kamehameha set a precedent with regard to no blood quantums for "natives". John Young was the grandfather of Emma (Rooke) who was the Queen of Kamehameha IV who, together, founded the Queen's Hospital as their legacy to their people.

The early association with Britain sometimes has been described as being a protectorate but it was never formalized as such, and the ceding of

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Tamehameha's kingdom and his sovereignty was never concluded. Tamehameha did express an intent for his native people. As conqueror and absolute monarch, Tamehameha could be said to own all of the lands in the kingdom, but it was not his private property. Rather, he held it in trust for the chiefs and people in common. This concept is embodied in the statement by Tamehameha which said "all of the lands of the kingdom from one end to the other belong to the chiefs and people in common".

CAPTAIN COOK

Cook

A brief description of early native Hawaiians appeared in the diary kept by Lt. Gilbert, who had taken over command of Captain Cook's ship after Cook had been killed. The narrative describes the natives as well behaved and very friendly and that it was possible to trade with them the usual articles from the iron stores. The arrival of the English ship on January 18, 1778, was welcomed by 1,010 canoes crewed by an average of six men in each. The settlement of two villages at the bay in Hawaii (Kealakekua) was larger by eight times than any other that had been seen in all of the South Pacific previously. It seemed the country was one entire plantation as far as could be seen from the ship, and this plantation was divided into squares by stones thrown together or separated by hedges of sugar cane. On a later voyage, Ebenezer Townsend, Jr. aboard the ship Neptune *also found the natives' land in the highest state of cultivation. A third and later reference to highly cultivated lands confirms the early native industriousness, supporting a population of some 400,000 individuals, and further, the extent of lands under cultivation was to be observed on all of the islands. At the time, the practice of religion by the natives was also observed and appeared to be an unselfish exercise to solicit blessings for the entire community. This practice appeared to differ from Christianity's dividing forces of good and evil and seeking individual favor.(2)*

LIHOLIHO (KAMEHAMEHA II)

After Tamehameha died in 1819, Liholiho (Kamehameha II) succeeded his father and did not change the existing land system, possibly to avert dissention between Tamehameha's surviving chiefs. New religious concepts were introduced from the west that were to have a great impact on the existing native culture, to the detriment of the natives.

The concept of land as a commodity was introduced at this period and westerners, including missionaries with the Board of Missions, petitioned to purchase lands in fee from the kingdom. Pointing out the service they performed, the missionaries argued that they were deserving of lands to cultivate. Missionaries were permitted to purchase 300 acre parcels for the compensation they offered and cultivated sugar cane as a means of supplementing their income. The Protestant work ethic was introduced with the phrase "as for the idler, let the industrious put him to shame, and sound his

name from one end of the country to the other". Which may have meant the natives were expected to till these fields under a feudal labor arrangement.

$ money

The concept of money was introduced by westerners and a ready cash crop was sandalwood. The trade in sandalwood was a brutal business for natives who underwent many hardships to harvest the wood. Few trees remain today through overharvesting. After overharvesting collapsed the sandalwood trade, westerners with substantial capital accumulated in that trade began large scale sugar plantations in the islands. The first such plantation was started in 1835 by three Americans under the name of Ladd & Company.

Liholiho and his queen, Kamamalu, traveling abroad to England succumbed to the measles, two of many native victims of introduced diseases. The ravages of disease were to reduce the natives to a fraction of their original number, and encouraged the import of contract labor with minimum safeguards to replace the declining native labor force.

By 1826, ships from many nations had arrived in Hawaii. It was in 1826 that the first "Articles of Arrangement", sometimes referred to as a treaty, was signed between Hawaii and the United States. Thereafter, other agreements were made between Hawaii and foreign countries and there were to be more than a score of these.

KAUIKEAUOLI (KAMEHAMEHA III)

In 1839 Kamehameha III, the young son of Tamehameha, granted an "Amendment of Rights" which could be called a native Hawaiian Magna Carta. In 1840, Kamehameha III granted the first constitution to his people, incorporating in it the earlier Amendment of Rights with amendments. The constitution of 1840 outlined the system of polity as follows: "Tamehameha (Kamehameha I) was founder of the kingdom, and to him belonged all the land from one end of the islands to the other, though it was not his own private property. It belonged to the chiefs and people in common, of whom Tamehameha was the head, and had the management of the landed property. Wherefore, there was not formerly, and is not now any person who could or can convey away the smallest portion of land without the consent of the one who had, or has the direction of the kingdom."(3)

The constitution of 1840 was basically a formal recording of the existing laws and customs long practiced in the kingdom. At this point the sovereignty enjoyed by the natives under a constitution was founded on their culture. Importantly, for the first time the constitution of 1840 gave actual

political power to the common people. Progress had been rapid from an absolute monarchy employing a feudal system of land tenure and emerging from what had been described as a stone age culture, to an early constitutional monarchy, all within a generation.

CONSTITUTION AND NATIVES

After the granting of the constitution of 1840, Kamehameha III went before the House of Nobles in April of 1852 with a new constitutional proposal for consideration. This proposal, with amendments, became the constitution of 1852. These constitutions were not extracted from the king, rather were unique grants. It may be pointed out that the constitutions of the Hawaiian kingdom differed from the American constitution in this important particular, that whereas "We, the people," ordained and established the constitution of the United States, the Hawaiian constitution was not thus established. It was so declared by the Supreme Court of Hawaii in March, 1883. By proposing the action of the constitution of 1852 the king set a precedent that he could, with the consent of the legislature, change the constitution. This act was repeated in 1864 when the king changed the constitution in the same manner. Minister R.C. Wyllie believed in the theory that the king, when he granted the constitution, had the right to abrogate that constitution and proclaim a new one to accommodate the times. Wyllie quoted the king as saying that, "If it (should) work badly for me and my people, remember, what I give, I will take away." Wyllie was thoroughly convinced that the monarchy was essential to the preservation of the Hawaiian people and the maintenance of their independence. Based on these precedents, the small band of foreigners acting as the "Committee of Safety" had no authority to intervene when Queen Liliuokalani proposed a new constitution which she later retracted. But it afforded the plotters the excuse to land troops because "they were unable to defend themselves and therefore needed protection."

FOREIGN INTERVENTION

In 1842, U.S. President Tyler declared that the Hawaiian government ought to be respected and no foreign powers ought to seek undue control of the existing government. Soon after, Congress provided an appropriation and the President appointed a diplomatic agent to Hawaii.

It was in May of 1843 that Lord George Paulet commanding a British frigate seized the Hawaiian kingdom due to unresolved claims by British citizens in Hawaii over leased property. A short time later the British, via emissary Admiral Thomas, arrived to advise that the act of seizure was unauthorized and restored the kingdom to its former status. The king then declared in his report to the legislature on the matter, "Ua mau ke ea o ka aina i ka pono" *(The life of the land is preserved in righteousness), and today this declaration is the state motto. But it can be asked, is the motto true?*

By November of 1843, a joint declaration by the British and French stated that the Sandwich Islands composed an independent state. If ever there was a British protectorate over Hawaii as suggested during the Tamehameha reign, it was clarified at this point by the two powers' recognition of independence.

G. P. Judd

In 1844 minister G.P. Judd wrote, "It will be necessary to employ a few foreigners of high character in offices of trust and responsibility in order to sustain the relations of the Government with other governments". The policy of this period, 1844, was to create a Hawaiian state by the fusion of native and foreign ideas and the union of native and foreign personnel to work for the common good. Towards this end, those of foreign birth should become Hawaiian citizens by taking an oath of allegiance, even in cases of marriage to Hawaiian women.(4) Again as in Tamehameha's reign, the services of responsible non-natives in government was sought.

MAHELE (LAND DIVISION)

In 1845, Kamehameha III created the Board of Land Commissioners to quiet land titles and an effort at land reform was started. The Land Commission evolved the conclusion that there were "but three classes of persons having vested rights in the lands": First, the Government (here treated as synonymous with the King); second, the landlord; and third, the tenant. As to the question of lands for the common people, it was solved by dividing the total lands into three groups, that held by the King (Crown), the government, and the chiefs. While independent of each other, each group was subject to the rights of the tenant. Therefore, the common people and their descendants were not forgotten, even though a third or a fourth or any specified fraction of the land had not been specifically divided off and given to them in the general settlement.(5)

By March 18, 1848 the land division would look basically as follows:

Government lands	*1,495,000 acres*	
Crown lands	*984,000*	
Ceded lands		*2,479,000*
Chiefs lands	*1,619,000*	
Kuleana lands	*28,000*	
Total acres	*4,126,000*	

In the division, the intent was that native people would be awarded title to the lands used and occupied by them as kuleana *grants which is similar to the use and occupancy rights of other native Americans now being recognized. A* kuleana *grant in effect carried out the Tamehahameha (Kamehameha I) statement, "All of the lands belong to the chiefs and people in common". The granting of a*

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kuleana by the Land Commission recognized the vested interest native people had in the land they occupied and used. Kuleana to an individual could be separate parcels of land, with access to the entire ahupua'a (land division) permitted for several purposes such as gathering. Kuleana often appeared as random selections of parcels because that was how they were located naturally. This situation contributed many times to these parcels being land locked, or natives being denied access through large surrounding landholdings and eventually the kuleana could be subjected to adverse possession claims.(6) In any event, kuleanas could be found in all three of the major divisions of crown, government, and chiefs' lands by the expressed concept that all three divisions were "subject to the rights of the Tenant, or common people".

Early in 1845 the Minister of the Interior proposed to the legislature the appointment of a commission to examine land titles. This proposal was later passed by the legislature and the Commission thus formed adopted as principles in 1846 the following:

> Ancient practice, according to testimony, seems to have awarded to the tenant less than justice and equity would demand, and to have given to the King more than the permanent good of his subjects would allow. If the King be disposed voluntarily to yield to the tenant a portion of what practice has given to himself, he most assuredly has the right to do it: and should the King allow to the landlord one-third, to the tenant one-third, and retain one-third himself, he, according to the uniform opinion of the witnesses, would injure no one unless himself.

In this land division the intent was to give greater incentive to those who worked the land by offering a more permanent base from which to operate. In the beginning some of the natives did not have confidence in land purchases and its security, while others remained aloof for a long period following. Finally, many natives did take up each a small piece of land at Makawao in the earliest experiment.

In 1849 David Malo was to say:

> "I believe it best that at this time, the people should own lands as they do in foreign lands; they (the people in foreign lands) work all the harder knowing they own the land, and very likely it is the reason why they love their country, and why they do not go to other places and perhaps that is the reason why they are great farmers."

It is well to remember that the Land Commission had no authority to divide the lands or grant patents. It could, as a Commission, decide the validity of claims and then define the character and boundaries of the land to be covered by an award. This approved award could be taken to the Minister of Interior and by paying the commutation tax (one-third the unimproved value of the land) one could obtain a Royal patent in fee simple. Interestingly, it was

not obligatory on the receipt of an award to take it to the Minister and obtain a patent, and as the owner could not be dispossessed of the land, some awards remained unpatented for many years. It was not until 1909 that a procedure was provided by law for enforcing the payment of the commutation tax due the government on Land Commission awards. In the law of 1909 the government's right to commutation is spoken of as a lien for money due the government. It is noteworthy how the process operated and its longevity after the overthrow and on into the Territorial era. Because of this process by the commission, there was a problem in dividing the lands according to the one-third concept so that the natives never did receive the one-third so often spoken about in the initial understanding.

By 1849 due to observations of Dr. Judd regarding possible foreign intervention, it was argued the natives should at least be given fee simple title to those lands occupied by them. This act would protect the natives if the king's government was overthrown and a Republic set up, because in such cases only private property is respected. Therefore it would be wise to put every native family in possession of a good piece of land in fee simple as soon as possible. Judd was to say, "In this endeavor we shall only do the poor natives justice, for by the principle adopted by the Land Commission, the poor natives are entitled to one-third the lands of the kingdom."

KULEANA (LAND GRANT)

At this juncture, it was intended that each native be granted a land award or kuleana which he himself must survey at his cost, and then record. After the survey of the land occupied and to be claimed took place, a commutation tax was payable to the treasury. If there was a lack of money, and there frequently was, then one-third of the land claimed in the kuleana could be deeded back to the government as a commutation tax payment. This was done many times by those possessing chiefs lands, and those on chiefs lands could be considered to have fully paid their commutation taxes by the one-third reversion. Common people who were essentially without cash were at a disadvantage. Non-native people who had access to cash did use cash to purchase lands being awarded and had advantages. If a native did not file a kuleana claim for property he was entitled to claim because of lack of knowledge, poverty, or uncertainty by the expiration date in 1854, his potential kuleana would revert to the government as in escheat.(7) This meant in effect that the native was overpaying a commutation tax by two-thirds over the requirement. In overpaying the commutation tax, the native could have an equity interest in the subject kuleana with the government besides the first or original vested interest.(8) Because the Land Commission, the legislature, and the king all had previously promised the commoners an undivided one-third interest in most of Hawaii an intent was expressed. While there is no decision on such an argument before the Land Commission or the Supreme Court of Hawaii to the contrary, it can be assumed that the Kuleana Act only divided out a small portion of the commoners interests and that the commoners should have been entitled to the remainder of those interests. In this connection, the preamble of the constitution of 1840 stated, "Nothing whatever shall be taken from any individual except by express provision of law."

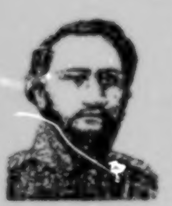
ATTEMPTED ANNEXATION

In 1853, American malcontents in the kingdom had annexation in mind. It was said that these American agitators did not want "peaceful annexation so much as to get the Hawaiian government into their own hands". "These ambitious gentlemen can then sell their conquest to the United States on their own terms, and pocket something from the operation".(9)

It was early in 1854 that members of the first "Committee of Thirteen" contemplated "peaceful agitation", with the view of compelling the king to cede his sovereignty to the United States; that in the event of his refusal measures would be taken to effect a revolution and establish a Republic. Reliable sources indicated the "Committee of Thirteen" had revolution in view, and did not intend to grant any rights to the native people in the new government they were planning to set up. There were alarming activities during the period of foreign arrivals and unusual shipping actions. The king was being harrassed and subjected to intimidation.(10) British foreign minister, the Earl of Clarendon, denied that the Hawaiian government was reduced to the necessity of surrendering its independence. He hinted that the illusion of such necessity, caused by the "restless and intriguing spirit" of certain American citizens, ought not to be taken advantage of by the American government, and argued that although the United States government had not, on technical grounds, joined Great Britain and France in a formal agreement to respect the independence of the Hawaiian Islands, yet statements of three secretaries of State (Upshur, Calhoun, and Webster) had in effect pledged the United States government to such a course.(11) Because of the situation, inquiries for assistance were made by the king based on the understanding of Hawaiian independence and when these inquiries received affirmation, the king issued a proclamation on December 8, 1854. In the Proclamation, the king stated that he accepted the aid offered in support of his sovereignty by the representatives of the United States, Great Britain and France and then added, "my independence is more firmly established than ever before".(12) In these circumstances, the danger, real or otherwise, of an uprising vanished and annexation efforts were stalled. Just one week later in mid-December the king died and with his death annexation discussions were terminated.(13)

The thirty-year reign of Kamehameha III was described as one of progress and liberty, of schools, a hospital and civilization. His constitution gave the people political power and fixed laws; he secured the people in the title to their lands, and removed the last chain of oppression. He gave them a voice in their councils and making laws they are governed by, he gave them a motto which later became a state motto.(14) The legacy he left is shared by all of the people of Hawaii. His choice of people in government helped design laws that have endured as amended to the present. It was early in Kamehameha's reign that the proposal to bring the Pitcairn Islanders to Hawaii and to help rebuild the native race was discussed.

ALEXANDER LIHOLIHO (KAMEHAMEHA IV)



In 1855, reciprocity was first proposed with the United States, but it failed to pass the Senate. The importance of Hawaii in the central Pacific to commerce and for potential military use was being considered. Kamehameha IV engaged in extensive foreign relations in 1857. Two grand principles were proposed. First, that all nations should agree to respect Hawaiian independence and consider the archipelago strictly neutral in all wars that may arise. Second, to have one identical treaty with all nations.(15) During this period, because of a concern for the preponderance of American interests both in commerce and in the cabinet, some missionaries who had previously expressed sympathy for the annexation movement of 1853-1854 were removed by the king from government positions.(16)

Kamehameha IV singled out the "heavy and special responsibility" resting upon him due to many deaths among the people. Towards this end $5,000 was appropriated for hospitals at Honolulu and Lahaina. In Honolulu, a hospital was built at the end of 1860 named the "Queen's" hospital. It was primarily a charitable institution for the benefit of poor Hawaiian natives, although its facilities were available to foreigners, and a few beds were reserved for pay patients.(17) Kamehameha IV and his queen, Emma, would attempt to rebuild Hawaii's population or at least to slow the decline.(18)

Kamehameha IV petitioned the Church of England to come to Hawaii, and St. Andrews Cathedral was established in Honolulu. In 1863 the American Board of Missions left Hawaii although all the missionaries who came did not leave with the returning contingent. A report shows that a total of 78 men and women were sent to the islands. Thirteen died in the islands and twenty-five had returned to the states before 1863. Only twelve were listed as remaining in Hawaii and it appears as if some are unaccounted for by the record.(19) Kamehameha IV died suddenly in 1863 having no formal successor.

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LOT (KAMEHAMEHA V)

The succeeding Kamehameha V most resembled his grandfather Kamehameha of the royal line. Hawaiian in his viewpoint, he encouraged the revival of old Hawaiian customs. His constitution of 1864 was based on that of 1852 with changes to strengthen the King and Cabinet in government.

It was also in 1864 that Andrew Johnson succeeded Abraham Lincoln after the assassination. In both administrations William H. Seward was Secretary of State. Reporting to Secretary of State Seward in 1866 was U.S. minister in residence at Honolulu, General Edward M. McCook. By mid-1867 General McCook had been advised to offer to purchase one of the small Hawaiian islands for a coaling station. Kamehameha V replied to the request, "It is useless to talk of purchasing a portion of these islands as they are not for sale". On July 30, 1867 the warship *USS Lackawanna* was dispatched from Honolulu on a mission to take formal possession of Brooks (Midway) Island as a coaling station. The offer to purchase and the taking possession of Midway Island located within the Hawaiian Archipelago, occurred at almost the same time.(20) Interestingly, the Hawaiian government in 1886-87 formally took possession of the entire chain of islands from Nihoa Island to Ocean (or Kure) Island to the northwestern end of the Hawaiian Archipelago, which should have included Midway. Midway set a precedent of acquiring non-contiguous territory and was a first acquisition in Secretary Seward's imperialistic policy. Formal acquisition of Midway on August 28, 1867 preceded by seven weeks Secretary Seward's purchase of 586,684 square miles of Russian America, what is called Alaska today, for $7,200,000. It was also in 1867 that the purchase of the Virgin Islands from Denmark by the U.S. was being considered under this expansionist policy.

C. R. Bishop

Native Hawaiians opposed any new discussions on reciprocity fearing that such a treaty would eventually lead to annexation. Many times Kamehameha V stated his firm resolve to maintain the independence of his kingdom. To support this contention Charles R. Bishop, husband of High Chiefess Bernice Pauahi, wrote, "the Hawaiian government and people are, at present opposed to annexation whatever may be said or printed to the contrary".(21) There is also evidence that Queen Emma and others, including the majority of native Hawaiians, spoke out to oppose annexation.(22)

In 1871, a Hawaiian treaty with Japan was concluded which expected to provide for extensive immigration of labor. Kamehameha V laid the foundation of the Royal Hawaiian Band by requesting a music master from Emperor Wilhelm of Prussia, who dispatched Henry Berger to Hawaii. Kamehameha V died without a successor although he had offered the throne to High Chiefess Pauahi, who declined the position. He left his large estate to Princess Ruth who left it to

Princess Pauahi to eventually found the Kamehameha Schools and is a combined legacy of these Kamehameha descendants.

LABOR AND SUPPLY

The Planters Society was organized in 1864, principally to address the problem of rising labor needs on the plantations. In 1865, the first contingent of 522 Chinese laborers were hired at $4 per month, with a $3 a year bonus at New Year's. In 1868, 148 Japanese were hired as contract laborers at $4 per month.

Contrary to many reports, native Hawaiians did not leave the field work. As late as 1869, several plantations employed all native Hawaiian labor. By 1870, while the native population was declining, there was a tremendous expansion of sugar production from two million to 20 million pounds annually. The demand for increased production and with it for increased labor, was so great that the labor had to come from outside the kingdom. This fact is demonstrated by a report in 1873; on the thirty-five plantations in existence at the time there were 3,786 employees. Of this there were 2,627 men and 364 women who were native Hawaiians. This shows that more than 80% of the labor force was native Hawaiian up to that time.(23)

LUNALILO

In 1872 Lunalilo began his reign during a depressed economy while the issue of reciprocity was again raised by sugar planters and others who supported such an arrangement. Lunalilo favored leasing the Pearl River harbor as an incentive versus ceding the Pearl River, in return for reciprocity. Reciprocity, the Pearl River and annexation were considered both jointly and separately, however, the Hawaiian government withdrew from further negotiations due to strong public reaction from native Hawaiians.(24) There then developed a breach between native Hawaiians and Americans exemplified by the extreme bitterness of Queen Emma toward the American missionaries. As she was to write, "The reciprocity treaty, giving away land, is much discussed these days, there is a feeling of bitterness against these rude people who dwell on our land and have high handed ideas of giving away somebody else's property as if it was theirs".(25)

It was in this period that General Schofield arrived in Hawaii, supposedly on a sightseeing tour. Actually, he was under confidential orders from the Secretary of War to assess the military importance of Hawaii, and specifically to observe the value of the Pearl River harbor as a military outpost for the U.S. in the north Pacific.

Lunalilo's reign was brief, about a year, after which he left a large estate of approximately 300,000 acres to provide a home for "poor, destitute infirm people of Hawaiian extraction, giving preference to old people", as his legacy to his people.

KALAKAUA

On February 12, 1874, Kalakaua was elected to the throne amidst disorder.(26) His inaugural pledge was to improve the lot of the entire kingdom. During his reign there was much progress in industry and commerce although a new constitution was forced upon him by non-native businessmen.(27) Kalakaua was said to have been under pressure and blackmailed during this episode.(28) The government under Kalakaua at this time also leased out water privileges to industry to develop more sugar cane lands. In 1884 the all "haole" Honolulu Rifles was organized with the approval of Kalakaua and the cabinet. Captain Volney Ashford was selected to command the Honolulu Rifles and was honored by Kalakaua.(29)

COMMITTEE OF THIRTEEN

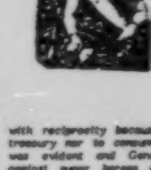
In 1886, Lorrin A. Thurston, a missionary descendant, organized the Hawaiian League with 400 members. It was basically a "haole" organization with an executive "Committee of Thirteen." The stated objective of the League was to seek a constitutional representative government in the Hawaiian Islands by any means necessary. The League believed Kalakaua would have to be forced to yield to a new constitution and so sought out arms and ammunition for that purpose. Thurston indicated that the Honolulu Rifles had become the military arm of the Hawaiian League.

At this point, more than 100 years after Cook's arrival they comprised about 20% of the voting population and had political strength.(30) L.A. Thurston read the demands of a resolution to the King to rewrite the constitution of 1864. He then proposed how a new constitution might be quickly drafted even though there were legal provisions in the existing constitution for such revisions which could be carried out by the legislature. Thurston would participate in the drafting of the new constitution and serve as a member of the cabinet. The constitution of 1887 was a revision of the constitution of 1864 and that of 1852 and that of 1840. In each case the interest conveyed in the original of 1840 was not altered. The constitution of 1887 would increase the power of resident aliens and reduce the native Hawaiian strength, something to which ever after the natives would object.

L.A. Thurston's written history, *Revolution of 1887*, states, "unquestionably the constitution of 1887 was not legally enacted, it is true". On the other hand Thurston's explanation for his actions are debatable and being a lawyer, he should have been among the first to object to illegal activities.

During his reign, Kalakaua travelled worldwide seeking agreements to acquire labor forces to help the sugar industry. The Kalakaua government appropriated money to solicit immigration into Hawaii to help infuse new blood and rebuild the population, and to assist the labor needs. The Kalakaua era saw an increased volume of shipping, a railroad started, the tram car system inaugurated, mail services upgraded and harbor improvements initiated. Hawaii's financial position improved, businessmen were making gains, and all Hawaii generally prospered.(33) Despite the profits all the citizens shared, especially the business community, Kalakaua had his critics who strongly attacked him personally for his failings. Measured only by the record, Kalakaua was able to carry out his inaugural pledge to improve the lot of the entire kingdom. Kalakaua reaffirmed, as previous native Hawaiian leaders did, his opposition to cession of any territory in any way for any purpose. He encouraged native customs and was active in the creation of music for lasting enjoyment. Kalakaua can be remembered for the much criticized Palace construction which can only now be finally appreciated as his legacy. It was in 1887 of Kalakaua's reign that the Reciprocity Treaty was renewed and would have expired under normal conditions in 1894 - a year after the *USS Boston's* troops aided in the overthrow of the Queen and her government. It can be pointed out as a last comment on this era that the constitution of 1887 made Kalakaua largely a figurehead and the governing power rested with the legislature.

QUEEN LILIUOKALANI



Queen Liliuokalani succeeded Kalakaua, her brother, at his death in 1891. The Queen came under increasing attacks by the entrenched alien male population. Some of the comments made were alarming and derogatory observations of both the Queen and the native Hawaiians. American Minister Stevens exhibited duplicity in reporting to U.S. Secretary of State Blaine.(34) At the time, the economy was depressed, due partly to the McKinley Tariff Act on sugar, and a renewed free trade treaty with the United States was advisable. Minister Stevens pointed out that the preceding Reciprocity Treaty developed Hawaii's economy while the McKinley Tariff Act depressed the economy. The strategic value of Hawaii would be sustained by a renewed trade treaty and that would increase the U.S. hold on Hawaii at the same time.(35) Opponents in the United States talked of doing away with reciprocity because it was a "bonanza to the planters but not to the U.S. treasury nor to consumers on the Pacific Coast." It was also argued that fraud was evident and General D.A. McKinley, brother of William McKinley, railed against sugar barons and missionaries.(36) The issue of the Pearl River was raised and Minister Stevens suggested it was available in perpetuity although there never was any indication that this was in fact favored by natives. In that context, ceding Pearl River for adequate compensation and seeking reparations due Hawaii for injuries suffered by the McKinley Tariff Act, were also explored. Native members of the legislature offered that no consideration of

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any kind would purchase one inch of Hawaiian territory and that the autonomy of Hawaii would be endangered otherwise.(37) The "Native Sons of Hawaii", a Hawaiian organization - resolved to preserve Hawaii's national independence and monarchical institutions strongly disapproving annexation.

ANNEXATION CLUB

Lorrin A. Thurston

L.A. Thurston, about January or February of 1892, formed the secret "Annexation Club". It was claimed that the purpose was not for annexation but that people should be ready in any case.(38) The Annexation Club kept no records for obvious reasons.(39) It was small, never more than seventeen members, thirteen of whom were on January 14, 1893 appointed to a second "committee of thirteen", the "Committee of Safety". They planned and directed the overthrow of the monarchy as so-called revolutionaries in 1893.(40)

In June of 1892, L.A. Thurston visited Washington, his trip partly funded by the Annexation Club. He interviewed James H. Blount and outlined the annexation possibilities and declared his intentions to carry out the annexation.(41) Blount's response was for Thurston to see others than himself on the matter, and considered Thurston to be an uppish sort of a person.(42) Thurston's account of these events are not consistent and there is room for doubt. Basically, Thurston and the Annexation Club attempted to convey the picture that the people of Hawaii were for annexation when in reality the whole legislature was opposed, and a member of the legislature went so far as to say he would prefer having an alleged corrupt government rather than annexation. W. B. Oleson, the Kamehameha Schools first principal, said on the subject of annexation that by retaining autonomy Hawaii was likely to gain greater commercial advantages than by amalgamating with any other country.(43)

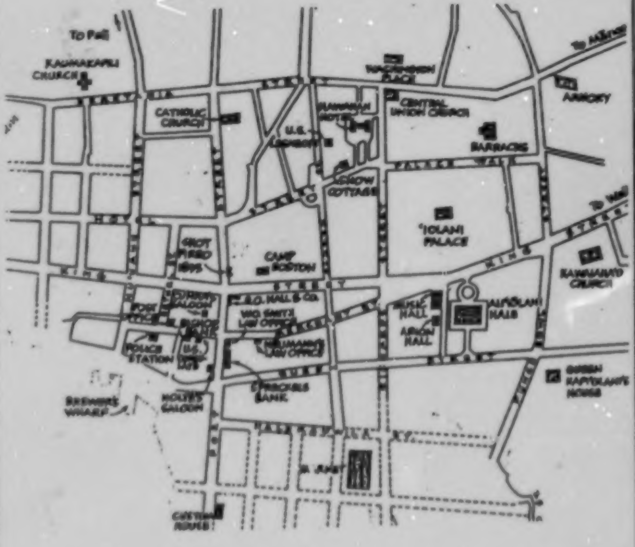
John A. Stevens, the American minister to Hawaii, a disciple of the expansionist William H. Sewara, supported the view of "manifest destiny" of the U.S. in the Pacific. On March 8, 1892, he wrote to Secretary of State Blaine, also an expansionist, declaring annexation to be the only true course for Hawaii.(44) Meanwhile there were other actions contemplated for the Hawaiian Islands. The U.S. State Department was apprised of plans to depose the Queen by forces within the kingdom. As Navy Undersecretary Theodore Roosevelt had proposed, the U.S. Navy could be used to establish a protectorate. Willing would be the administration of President Benjamin Harrison to use the Commander of the American Pacific Squadron to assist in annexing Hawaii.

COMMITTEE OF SAFETY

On January 14, 1893, the Queen prorogued the legislature and announced her intent to proclaim a new constitution.

DIAGRAM I

Downtown Honolulu in 1893 showing the U.S Consulate and the U.S. Legation from Arion Hall where the U.S. troops were quartered to "protect American life and property". Also shown is the Police Station where the Hawaiian troops and ministers were located close to Nuuanu Avenue and where most of the American property was located. This positioning suggests the Hawaiian troops were more favorably located to protect American lives and property than were the U.S. troops.



An account by L.A. Thurston relates how members of the Annexation Club saw their opportunity to promote their views: "they seized the initiative and it is beyond question that they were the chief directors of the course of events during the next few days in mid-January of 1893".(45) Thurston suggested "that steps be taken at once to form and declare a provisional government". This was to be followed by annexation to the United States. Thurston, a member of the Committee of Safety called upon Minister Stevens to inform him of their plans. Thurston then called upon French and British ministers Colburn and Petersen for concurrence, explaining that Stevens "would land his troops and support the movement if a proclamation deposing the Queen and setting up a provisional government was issued from any government building in town". There is a discrepancy in Thurston's account of these events and some uncertainty.(46) There are indications that the Committee attempted to divide the cabinet and induce separate ministers to take the lead against the Queen, but the effort failed. Meanwhile, the Queen and cabinet felt that a proclamation was necessary to guarantee that any new constitution would be implemented by methods provided for in the constitution itself. However, this effort did not appear to satisfy the opposition. Thurston called on Minister Stevens again to inform him of the latest developments. There was another informal meeting at Thurston's residence on Sunday evening. The next morning, (Monday) January 16, the Committee of Safety met for three hours in Thurston's office to arrange a mass meeting when Marshal Wilson called to advise the Committee to cease plotting against the Queen.(47) At the mass meeting, Thurston spoke and others followed, their language incendiary. One voice was raised for proceeding by constitutional methods but a unanimous standing vote amid approving cheers apparently gave the Committee its sanctions to proceed. Thurston had rejected the marshal's advice to cease plotting revolution and instead prepared to ask Minister Stevens to land troops from the USS Boston anchored in the harbor.

Minister Stevens was requested to act on behalf of the Committee of Safety, the majority of whom were not American citizens, because they were unable to defend themselves and therefore needed protection. The question that can be asked here is why were they unable to defend themselves, and seek protection from what threat? Stevens was to explain before a congressional inquiry that the Queen's revolutionary acts was justified cause to land troops, menacing lives by using armed force and threats of violence.(48) The troops were landed at 5:00 p.m. and caused some apprehension to the Committee because they were apparently not prepared for that eventuality; in fact efforts made to delay their landing may indicate there was indeed a lack of ongoing unrest.(49) After landing, the U.S. troops marched up King Street past the Palace to the first position identified on the McCarthy diagram to Wilson (page 22). In so doing, the troops gave Her Majesty a royal marching salute, arms port, colors dipped and ruffles on the drums. This indicates the Queen's sovereignty was recognized on that evening of January 16, 1893 contrary to what Minister Stevens claims was an interregnum. Investigating the incident, American Minister Blount was later to charge that the landing of troops was prearranged under an agreement to assist in overthrowing the Queen's government. More comments on the affair including those of Admiral Joseph Skerrett, Commander in Chief of the Pacific Station, and those of Lt. Commander Swinburne pointed out, "It was inadvisable to locate the U.S. troops where they were quartered if they were landed for the protection of U.S. citizens and their property, if troops were landed for the protection or support of the provisional government, it was a wise choice".(50)

DIAGRAM II

Diagram from Volume I of the Hawaiian Investigations showing the various positions of the United States troops after landing. There were three positions up to Arion Hall which were to cover the government building. A fourth position was established with Camp Boston after the protectorate was initiated and is shown in Diagram I, Page 20.

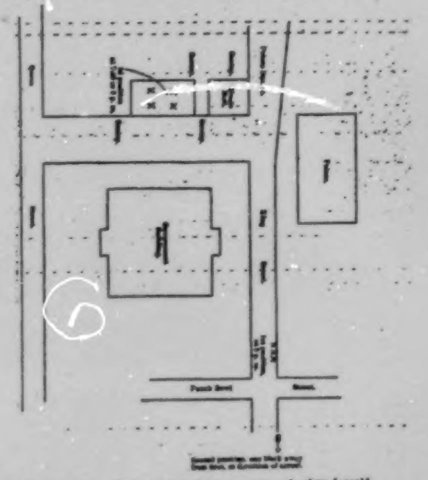
No. 19.

Mr. C. J. McCarthy to Mr. C. B. Wilson.

HONOLULU, HAWAIIAN ISLANDS, May 1, 1893.

Mr. C. B. WILSON:

DEAR SIR: As per your request of to-day I inclose you a diagram of the position of the Boston troops on Monday evening, January 16, 1893. They remained in the third position for several days.



In connection with the arrival of the committee of safety, I would say that they arrived at the Government building at 2:30 p. m. on

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After the troops landed, the Queen's cabinet was alerted and sought assistance from Minister Stevens asking his position in the matter. The reply from Stevens for clarification in the matter was later obtained by investigating Minister Blount. It indicated Stevens had not only refused to come to the assistance of the Queen but said that if the insurgents were attacked or arrested by the Queen's forces the United States troops would intervene, and should a provisional government be established by responsible citizens, Stevens would recognize and support it on request.(51) This lack of support of the de facto government of Hawaii reversed the support given the Hawaiian government in 1884 to overcome the crisis with the first "Committee of Thirteen".

ALLEGATIONS

At this point some of the events leading to this can be examined. The Queen was under attack personally and as a woman by her opponents in increasing stages. Under the constitution of 1887, the power of the sovereign had been reduced to a nominal role. As with Kalakaua, the Queen could veto but not effect legislation. Laws, such as the lottery and opium acts, were enacted by the legislature, and only needed her signature. Yet the Queen was charged with promoting these two acts. She was also charged with abdication by proposing a new constitution and not supporting the constitution in place which she had agreed to uphold, creating unrest and turmoil. It was claimed the Queen had, by her actions, created an interregnum (void) in government. The charges were premature. She did not proclaim a new constitution, she did not abdicate, and there was not an interregnum, or void, in government beginning in January 14 through 17th.

PROCLAMATION

By a sequence of events, the Committee of Safety was able to take over undetected a government building for the purpose of publicly reading a proclamation declaring the end of the national government.(52) This event was a muted and secretive affair rather than an open and widely supported movement. The building had been purposely scouted to see if it was guarded. It was found to be vacated, the incumbent Hawaiian ministers having made their headquarters at the police station where the national troops were stationed.

Newly arrived American Henry E. Cooper read the proclamation, hastily prepared by Thurston at about 1:00 p.m. Cooper, little known at that time, was to be severely criticized later for his actions as chairman of the Committee of Safety. As the proclamation was readied, a lone armed supporter was present, apparently to protect Cooper during the announcement; as the reading progressed a few supporters arrived, hovering about uncertainly. They were surprised that the U.S. troops did not attend to protect them from harm, as had been expected.

From his sickbed, U.S. Minister Stevens supposedly granted recognition to Thurston's government at about 3:10 p.m. Stevens failed to inspect the government buildings and barracks for signs of occupation and possession, as is customary in international practice to be recognized as a de facto government; instead he sent an aide. Meanwhile, the Queen was intimidated and coerced into

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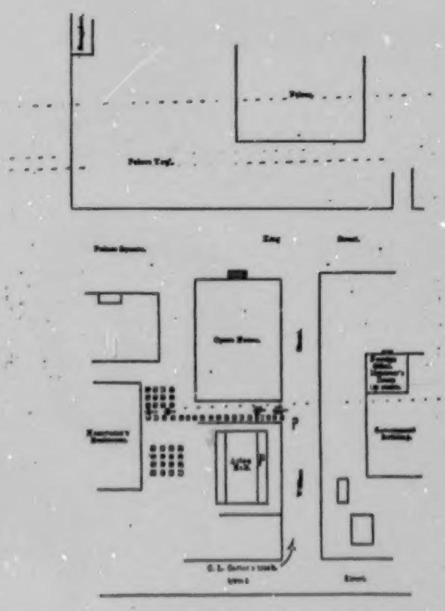
Diagram III

Sketch from Volume 1 of Hawaiian Investigations to show position of the United States troops ashore on January 17, 1893. Diagram points out cannon and troop location as the proclamation was read by Henry Cooper to declare the Hawaiian government terminated.



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submission at about 6:00 p.m. It appeared useless to resist with the news of recognition being granted the Provisional Government and the U.S. troops stationed outside. The marshal, with the Hawaiian troops at the station, refused to surrender until advised directly by the Queen to yield, which he finally did at about 7:30 p.m. — long after Stevens had acted so hastily.(53) As pointed out by U.S. Senator Gray questioning Stevens, "if a government is de facto it could be recognized the next day or several days thereafter when proper investigations were made to ensure the proper conditions were met and did not need to be recognized immediately or quickly as so happened". The Queen had been counseled to yield, and she did to the superior forces of the United States — but not to the Provisional Government as it was many times contended. So it can be assumed no one yielded to the Provisional Government at the time or ever, and it was never a de facto government of Hawaii.(54)

The Queen as a result had prepared the following note:

> That I yield to the superior force of the United States of America, whose minister, John Stevens, has caused United States troops to be landed at Honolulu and declared that he would support the said Provisional Government. Now, to avoid any collision of armed forces and perhaps the loss of life, I do, under this protest, and impelled by said force, yield my authority until such time as the Government of the United States shall, upon the facts being presented to it, undo the action of its representatives and reinstate me in the authority I claim as constitutional sovereign.
>
> Done at Honolulu this 17th day of January, A.D. 1893
>
> Liliuokalani, R.
>
> (Indorsed) Received from the hands of the late Cabinet, this 17th day of January, 1893.
>
> Sanford B. Dole

The position of the U.S. in these events is an interesting one. Liliuokalani yielded to the forces of the U.S. until such time as she would be reinstated. No reference is made at any time to accepting the legitimacy of the Provisional Government whose members had abrogated the native Hawaiian government. Yet the United States was not an adversary at the time, while the Provisional Government was the adversary. Thus a de facto government of Liliuokalani yielded to another de facto government, the United States; the Provisional Government was never a de facto government. Had representatives of the U.S. been in fact adversary in these events, the issue could have been settled quickly. As President Cleveland directed restoration and members of the Congress condemned the act of interference in the internal affairs of a friendly nation, the acts would have been refuted and Liliuokalani's reinstatement promptly provided.

But what about the counseling and advice S.M. Damon gave Liliuokalani which influenced her to yield? It can be found that S.B. Dole handled the issue by this correspondence:

> Mr. Damon, on the occasion mentioned, was allowed to accompany the Cabinet of the former Government, who had been in conference with me and my associates, to meet the ex-Queen. He went informally, without instructions and without authority to represent the Government (P.G.), or to assure the ex-Queen "that if she surrendered under protest her case would afterwards be fairly considered by the President of the United States." Our ultimatum had already been given to the members of the ex-Cabinet who had been in conference with us. What Mr. Damon said to the ex-Queen he said on his individual responsibility and did not report it to us.

But there are questions regarding Dole's denial of knowledge. Damon was vice president of the Provisional Government and presented every appearance of possessing due authority before the Queen in his representations. More than that, when Dole received the Queen's note and endorsed it as received on the 17th of January, he was aware of two facts the note contained. First, that the Queen yielded to the superior force of the United States, not to Dole's Provisional Government and, second, that the note expressly indicated that the Queen would yield under protest and use of force until such time as the United States would undo the action of its representatives and reinstate her as constitutional sovereign. It is difficult to believe Dole was not aware of the facts and would continue to exercise duplicity.

INTERREGNUM

It will also be found that Minister Stevens and L.A. Thurston of the Committee of Safety were responsible for creating the real interregnum in the Hawaiian government they have charged to the Queen. Thurston had been a leading participant in other affairs of a questionable nature. In 1887 force and coercion were admitted used to invoke a new constitution; Thurston explained his actions by recalling how the Magna Carta was extracted from King Charles. The question remains, does Thurston's precedent justify his use of unconstitutional means to install a new constitution of 1887, and make it right? Force is again used in 1893 to abrogate the legitimate Hawaiian government operating under the constitution of 1887. It should be remembered that Thurston was among the leading drafters of that constitution which is now rejected by the Committee as the law of the land. It would appear that the use of force has no bounds when inflicting the will of the Committee upon all of the citizens of the kingdom. These unilateral actions are repeated in 1894 when the constitution of the

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Republic of Hawaii is proclaimed, forming a non-republican oligarchy with the president (Dole) proclaimed for life on 4 July 1894. The Republic of Hawaii was sometimes described as a dictatorship, depriving the citizens of the kingdom their civil rights. T.J. Ryan of the American Settlers' Association was to charge how the Hawaiian oligarchy (under the name Republic), "by property qualifications for voters and other means no less infamous, destroyed the voice of the people in public affairs, at which the Land Act of 1895 was passed and every public privilege and utility was divided among the manipulators as best suited their purposes". A record of voting follows:

S. B. Dole

	Voters	Total Population
Last vote cast under the Monarchy	14,217	90,000
First vote cast under Oligarchy (1894)	3,052	100,000
Last vote cast under Oligarchy (1897)	1,917	110,000
First vote cast under Territory (1900)	10,163	154,000

The Republic of Hawaii was not a republican form of government although it may have appeared so. The number of votes cast in succeeding elections were actually decreased while to the number of residents increased as shown above. The Republic's constitution of 1894 also contained an unusual provision to promote annexation. It would be difficult to oppose annexation for the citizens of Hawaii as the drift towards annexation would be accomplished without the consent of the many.

The reading of the Committee's proclamation initiated the real interregnum or void in the Hawaiian government. This illegitimacy was to be compounded by the American Minister granting de facto recognition to a non-de facto government - the Provisional Government. Thurston in anticipation already had two orders in hand prepared, one to close all liquor establishments and the other to notify the foreign consular corps in Honolulu for concurrence as the recognized government of Hawaii.

PRESIDENT CLEVELAND

Grover Cleveland

President Grover Cleveland was to observe later that Stevens' de facto recognition was a confused action because according to the terms of recognition of the Provisional Government it was based on annexation having been completed first.(56) In their haste, the Committee created oversights and breaches of international law. The question is, how could immediate recognition be given the Provisional Government when annexation was to actually take place years later in 1898 and then only by a resolution? President Cleveland also noted that the Provisional Government was not de facto nor de jure because it could not stand by itself and was solely supported by the force of arms of the USS Boston. This dependence was demonstrated when the chairman of the executive committee, Dole, requested U.S. forces remain ashore and a protectorate status placed over Hawaii.(57) Because the apparent protectorate was observed by the English minister on Wednesday, January 18, 1893, he was to inquire whether the Provisional Government was de facto and able to stand by itself if U.S. troops were stationed ashore and a foreign flag (U.S.) was flying over the government building of the Provisional Government of Hawaii.(58)

It will be found that there were discussions before January 17th by the Committee of Safety to send a ship (Claudine) to California to carry an annexation proposal to Washington but action was delayed until after establishment of the Provisional Government.(59)

MINISTER STEVENS

It can also be found that the Queen's ministers negotiated with Stevens throughout the crisis and there was no interregnum existing from January 14 as claimed. The ministers were headquartered at the police station where the troops were. The number of Hawaiian government troops, armament and cannon exceeded that of the Provisional Government and equalled that of the USS Boston.(60)

The Hawaiian Government troops would not have yielded if they had only to confront the Provisional Government forces; and this is supported by their long period of refusal to surrender, which they finally did only under the direct orders of the Queen. To this fact there has been testimony in addition to supporting activities. The difference was the involvement of the U.S. troops. For the Provisional Government to take the armed police station would have meant bloodshed. While Thurston had declared that he would shed his blood in the cause, when Stevens insisted on landing the U.S. troops Monday at 5:00 p.m. promptly, it was found that Thurston, Wilder, and Castle of the Committee of Safety had gone home to bed sick rather than face the confrontation.

It is further found the Stevens' request to Captain Wiltse for troops was to first protect the United States consulate and legation and second to

secure the safety of American life and property. The question is, from what danger when all was quiet and had been for some time?(61) American property was mainly located around Nuuanu Avenue as attested to by Lt. Swinburne, and the American legation was a distance from Arion Hall - which was located next to the government building - where the troops were finally quartered. As to Arion Hall being the only quarters Stevens could find for the troops who were sent ashore after their dinner and without tents, that seems very poor planning or was done purposely. In fact, an available empty hotel owned by an American pro-annexationist Henry Waterhouse on Nuuanu Avenue could have served very well for quarters. But quarters at Arion Hall provided a clear view of the government building where Henry E. Cooper was to read the proclamation under the nearby guns of the USS Boston, to provide protection in case of the American's arrest by the legitimate native Hawaiian government.

REQUEST FOR ASSISTANCE

The Hawaiian ministers were at the police station drafting a note to Stevens for assistance to preserve the peace of the country, pointing out "certain treasonable persons occupied the government building with armed forces, claiming to be the Provisional Government recognized by you." This note was delivered at about 2:45 p.m. to Stevens' daughter at the American legation, Stevens reported in bed sick. At 3:10 p.m. Stevens' reply note implied he had already extended recognition to the Provisional Government. However, there is evidence that recognition came long after, about 5:00 p.m. These discrepancies cast a cloud over the entire issue. If there was an interregnum in government it was most likely created by Stevens himself. The important point is, did recognition and maneuvering cause the collapse of a de facto government with no de facto government to succeed? As argued by Locke and Blackstone, it is important to continue the sovereign governing process to avoid chaos and panic. The question can be: why did not the opposition sustain the existing government as the only de facto government and place the heir upon the throne if the Queen had abdicated as claimed?(62) A second question is, did Stevens ever consider the fate of the native Hawaiians or the fate of some 50,000 other residents who would have no voice in the matter? Shortly after the overthrow, Stevens telegrammed Secretary Foster that the "Provisional Government of Hawaii gaining power and respect. Everything quiet. Annexation sentiment is increasing." Further, he advised the secretary that he had placed the Government of Hawaii under the United States protection or established a protectorate. The question can be, did the Provisional Government have no power or respect in the beginning and needed a protectorate to sustain it as indicated by his actions? Stevens cited the presence of "renegade whites", "heathen foreigners", and "vicious natives", as well as some "evil-disposed persons" who might stir some of the 40,000 Orientals to disorder as the reasons for his actions. In this statement, Stevens has included the majority of the people in Hawaii, whose will he would subvert.

TREASONABLE PERSONS

It is interesting that the issue of treasonable persons is raised here and how large an impact it would have on the final outcome. In fact it was the issue of treason and its punishment for those involved that would finally place the native Hawaiians in subjugation from 1893 to 1900.

PSEUDO-HAWAIIANS

Another point to consider is that the vessel Claudine was chartered by the Provisional Government to carry three of its commissioners to Washington to seek annexation. The Queen, on the other hand, was only allowed to send correspondence to plead her case. The Queen noted in her account of these events that these commissioners, while in Washington, represented themselves as Hawaiians but while in Hawaii chose to be Americans. They were in fact pseudo-Hawaiians.(63)

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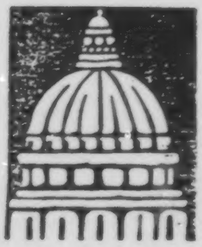
SENSE OF U.S. CONGRESS



Perhaps the most important event in this review was how the U.S. Congress resolved the Provisional Government's petition for annexation. On December 21, 1893, Representative McCreary, chairman of the Committee on Foreign Affairs of the U.S. House of Representatives, reported out of his committee a resolution for consideration. By February 7, 1894, the U.S. House of Representatives reconsidered the following amended resolution:

"RESOLVED, First. that it is the sense of this House that the U.S. minister, in employing U.S. naval forces and illegally overthrowing the constitutional Government of the Hawaiian Islands in January 1893, and in setting up in its place a Provisional Government, not Republican in form and in opposition to the will of the majority of the people, was contrary to the traditions of our Republic and the spirit of our constitution, and should be and is, condemned. Second: That we heartily approve the principle announced by the President of the U.S. that interference with the domestic affairs of an independent nation is contrary to the spirit of American institutions. And it is further the sense of this House that the annexation of the Hawaiian Islands to our country or the assumption of a protectorate over them by our Government is uncalled for and inexpedient, that the people of that country should have had absolute freedom and independence in pursuing their own line of policy, and that foreign intervention in the political affairs of the islands will not be regarded with indifference by the government of the U.S." This amended McCreary resolution passed the House with the following votes: Yeas, 173; Nays, 4.(64)

During the interim for the consideration of the McCreary resolution, two substitute resolutions were introduced. One by Representative Hitt which follows:

> *"RESOLVED: That it is the sense of this House that the demand caused by the President of the U.S., by his imperative instructions, to be made on the 19th of December last upon the officers of the Provisional Government, that it promptly relinquish all authority, and his proposed erection of a monarchy in its stead, was an unwarranted intervention in the affairs of a friendly, recognized government, the Provisional Government, contrary to the law of nations, the policy and traditions of this Republic, and the spirit of the Constitution."*

> *"RESOLVED: That the Provisional Government of Hawaii having been duly recognized, the highest international interests require that it shall pursue its own line of policy, and foreign intervention in the political affairs of these islands will be regarded as an act unfriendly to the government of the U.S."*

This substitute resolution by Representative Hitt was rejected by a vote of Yeas, 103; Nays, 158.

Following that, a second substitute resolution was presented by Representative Blair as follows:

> *"RESOLVED: That the House of Representatives approves the recognition of the existing Provisional Government of the Hawaiian Islands by the last and present Administrations of the government, and will view with satisfaction the maintenance of a policy which shall tend to consummate in the near future, with the consent of their people, the annexation of said islands to this country, or some political arrangement which will fully preserve and promote the mutual interests of both Hawaii and the U.S."*

This second Blair resolution was also rejected by the vote: Yeas, 80; Nay, 165.(65)

It is apparent that in both cases of substitute resolutions the U.S. House did not consider the Provisional Government as recognized or de facto. On the other hand the McCreary resolution passed as amended and was in support of the native government.

TREASON

So it can be found that not only did President Cleveland support the native Hawaiian government, but so did the U.S. House of Representatives. Further, both Minister James H. Blount and his successor Minister Willis, supported the native Hawaiian government. Blount had been selected by President Cleveland to investigate the Hawaiian Incident. He appeared to be neutral but was labelled with the derisive title of "Paramount", by the pro-annexationists. Blount conducted investigations on the scene which gave native Hawaiians a better opportunity to express their side of the overthrow. As was expected, the overthrow was not a widely supported act nor did it have the blessings of the majority of native Hawaiians. The Blount report encouraged the President to support the native government and to publically deplore the overthrow, recall the American diplomat, withdraw from Congress plans for annexation, and finally to call for reparations to vindicate the honor of the United States for its acts of war committed against a peaceful and friendly nation. All of this was in opposition to the local press (Advertiser) which was controlled by the annexationists and had published anti-native articles. This was not the first time that the press had been controlled; because it had been censored in its reporting the events of the so-called revolution of 1887 and during the imposing of the "shotgun" constitution.

It can be found there was widespread support for the native Hawaiian government from the President, Secretary of State Gresham and the U.S. House of Representatives with the passage of the McCreary resolution in 1894. Yet this support did not restore the native Hawaiian government. The question is, why? One answer could be the inability to resolve the question of treason and what penalty would apply. President Cleveland attempted to settle the issue but was hindered by the matter of how treasonous activities would be handled by a restored native government. How would those individuals involved in the overthrow be treated when a restoration took place?

It was not so much a case of whether treason had been committed, but rather the degree of punishment to be exacted. It appears on this principal basis, that the President did not insist on the restoration of the native government. For what would have happened if the shoe had been on the other foot? What is the penalty for treason, even in the United States? In the past, bands of adventurers were usually abandoned to their fortunes. Yet here it can be asked, why was a small group of thirteen individuals, including some Americans, supported in their misdeeds against the majority of the people whose welfare was placed in jeopardy by their actions?

It can be found that U.S. Secretary Gresham took a legalistic and altruistic view of this affair. He suggested that a plebiscite could be held, or that the Provisional Government might voluntarily restore the Queen. Actually, the members of the Provisional Government were not going "to cut their own throats" by restoring the Queen for they had already traveled too distant a path for safe retreat. In traveling this path the members of the Provisional Government were encouraged by the actions of individuals in the American government.

When the subject of treason again arose and the situation was reversed, it can be seen how the matter was handled by the Provisional Government. On January 6, 1895, there was an attempt by Royalist forces to retake the Hawaiian government and restore the Queen. Due to several reasons, including the spying efforts of one twenty-three year old Hawaiian with the likely pseudonym "Kaheiki", the Provisional Government was alerted and able to counter by arresting several participants. Those arrested were charged with treason and misprison of treason. Six of those charged were sentenced to hang by the military commission of the Provisional Government. W. O. Smith of the Provisional Government expressed the view in a letter to L. A. Thurston, at the time in Washington, that some example should be made of the insurgents to discourage any future attempts to regain the government. This letter indicated that some form of capital punishment should be considered. It was an absurd affair with many of the Royalists charged with treason for not having taken the oath of allegiance to support the Provisional Government. Native Hawaiians so charged with treason remained defiant.

SUBJUGATION

Meanwhile, native Hawaiians were to be suppressed by a show of force and no meetings permitted them. Group affairs were prohibited. Eventually the traditional use of their own language in the courts was to be denied them. It was a sad and shameful affair.

MORGAN REPORT

Finally at the request of Congress, another report was completed after two months of hearing chaired by Senator Morgan of Alabama. It was submitted on February 26, 1894, to the U.S. Senate. The Morgan Report was pro-annexation and did not identify events showing a conspiracy existed in the overthrow, although there was ample evidence. The investigation was held largely in Washington and Morgan had the advice of L.A. Thurston and other annexationists. Senator George Grey of Delaware, the administration's chief spokesman on the Senate floor, said Morgan examined witnesses "in a very partial and unfair way ... to aid the annexationists and injure the President." Secretary Gresham's reaction to Morgan's activities was that Morgan was insincere and meant mischief. James Blount considered Morgan's investigating committee an "outrage". The "Hawaiian affair" became a political football. Even the Democratic minority on Morgan's committee opposed the findings that absolved everyone of guilt in the affair save the Queen. Meanwhile these delays meant a long period of suspension and waiting in the islands.

There are incidents to show there was duplicity in the recital of the overthrow's activities. Minister Stevens frequently displayed his strong desire for annexation. When the opportunity came he would assist the process, then deny his participation. Thurston would be chief planner and hasty expediter. S. M. Damon would serve as a double agent and assure the Queen she could plead her case if she would only yield.(66) Damon would also attempt to extract from the Queen her proposed constitution in return for a bank loan.(67) Henry Waterhouse would make debatable statements in testimony supporting the Provisional Government as de facto.(68) Secretary Foster would repeat untrue statements from Stevens to Blaine when he inherited the office of Secretary. In the questioning of the participants in the overthrow can be found many contradictions, especially by Minister Stevens.(69) Not only was Stevens vacillating but he was evasive. What did he have to conceal in the questioning? Before the overthrow, Stevens had been advised by "confidential" communique from the Secretary to use the restricted Navy code in future correspondence in case there was a congressional investigation later. One of the coded messages on record did indicate the USS Boston had been dispatched to Honolulu to aid in the Hawaiian government annexation.

TRANSFER OF SOVEREIGNTY

In 1897 the Republic of Hawaii carried out a ceremony described as a "Transfer of Sovereignty" of the Hawaiian nation and government. A question arises as to how can a sovereignty, created and enjoyed by a distinct group of people (Hawaiians), be transferred by a non-possessor as a commodity? The

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Republic was to receive 4 million dollars on outstanding accounts. In return, the Republic was to cede about 1.7 million acres of Crown and Government lands as "unencumbered property", but in actuality there was an interest in the land not satisfied: that possessed by native Hawaiian people, whose consent was neither sought nor given. It does appear irregular. Never before in the annals of the American Republic did an incoming territory cede approximately 50% of its lands to the federal government as in the case of Hawaii — some 1.7 million out of a total of 4.1 million acres — in fact some states did not cede any land at all to the federal government when coming into the union. Hawaii was especially unique because those signing away the land were an oligarchy who had not acquired the ceded lands by any legitimate means. Meanwhile, private land holdings in 1893 amounted to 1,983,000 acres.(70)

Treaties of annexation had been prepared in 1854 and again in 1893, only to fail passage. When it was finally concluded in 1898, there were irregularities involved. Several normal procedures were omitted in the final effort of 1898 and it does appear to have been hastily accomplished. In the process to transfer Hawaiian sovereignty in 1897, from the Republic of Hawaii to the United States, sovereignty and the ceded lands were quit claimed. The ceding to the United States was a quit claim, which expressly limited the grantors warrant to that which at that date belonged to them. Anyone can issue such a conveyance and it would not convey anything, nor even pretend to put the grantee in possession of anything. What does that mean? What was acquired? Something other than sovereignty's transfer could mean its management, or administration. The big question is, who owns the ancestral lands of Hawaii and with them, sovereignty?

The question of ancestral land ownership raises other related questions. As an example, if it is held that the acts of one congress are the acts of all congresses and the acts of a president are the acts of all presidents, then the following argument can be made: That the initial native Hawaiian treasury seized in 1893 is essentially the same treasury existing and derives its funds from the same sources as before by taxes, leases and sales.

THE BEST GOVERNMENT ON EARTH

The average cost of operating the government of Hawaii was about $300,000 per year prior to the Provisional Government. During the Provisional Government period, an indebtedness of $800,000 was incurred and owed to the Bishop Bank. For the combined period of the Provisional Government and the Republic, the cost of government almost doubled to $4 million for the seven years of 1893 to 1900. It was charged that the $800,000 incurred by the Provisional Government was for special interest improvements.

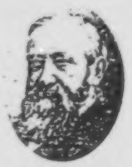
Beginning in 1895, the Republic was to sell off choice lands of the kingdom.(71) It can be found that large leases were favored over small parcels.(72) Section 55 of the Organic Act was to later limit parcels to 1,000 acres but this was to be exceeded.(73) Although corporations controlled

William McKinley

1,983,000 acres, sales continued until President McKinley issued Executive Order No. 2 to cease land sales.(74) The Executive Order, one of the President's first, did not stop land sales. The sales continued in spite of legal opinions indicating ceded lands were the property of the U.S. Further, officials of the Republic and Territory claimed that U.S. public land laws did not apply to Hawaii, therefore they could continue to sell land just as previously done by the preceding government. This was a direct affront to the U.S. that had title ceded to it and could legislate the disposal of ceded land. While the income from land sales should have assisted the treasury as a new and increased source, it did not appear to reduce the cost of government.

Between 1893 and 1898, the land management of Hawaii was erratic. Some established policies were discontinued and others that were implemented appear to be contrary to the laws of annexation. When the Dole Land Act of 1895 was passed by the Republic, the Crown lands could be alienated and sold, although vast holdings were already in the control of the large corporations. This land pool was one that was being used to offer homesteading after 1848 — in 1878, 1884, 1887 and up to 1892.(75) After the Dole Land Act was passed, good lands were acquired in large parcels by many government representatives who were in some way involved in sugar production. This was contrary to all declared intentions and also the kuleana concept and homesteading in general. When the kuleana concept is examined, it is clear, if the land was used it was available in fee conforming to the declaration "shall descend to the heirs forever". However, if the land was speculated upon or the value watered, a lease arrangement was appropriate for large scale commercialization.(76) Leased land may have been made available for homesteading as the need arose in years to come.

ANNEXATION


Benjamin Harrison

In 1898, there were many problems with the annexation process. President Harrison, as he had done earlier, suggested that a plebiscite be conducted to get a general public concurrence on the matter, but was discouraged to do so. Perhaps those in power, the annexationists, had good reason. Further, a treaty would require two-thirds Senate vote, and it was found that there may not be enough votes in Congress to pass the Treaty of Annexation of Hawaii. Therefore, it was decided to introduce a joint resolution of annexation, which would only require a simple majority. This haste and lack of due process made this procedure even more unacceptable to native Hawaiians. Additionally, after the resolution passed Congress there was no ratification process for native Hawaiian voters to accept the terms of annexation. These oversights pose a serious lack of sensitivity towards native Hawaiians.(77)

HAWAIIAN INVESTIGATIONS

As a review of the conditions in Hawaii, a resolution was introduced on June 13, 1902 in the U.S. Senate to investigate such conditions. This became the Hawaiian Islands under Hawaiian Investigations report.

Continuing on matters of the budget, we can find a committee report to the new legislature indicating the enormous cost of government.(78) It was $14.16 per capita per annum in Hawaii and $4.05 per capita per annum in California.(79) For a like period, the per capita costs were $2.50 for Arizona and $1.80 for New Mexico.(80) There was a substantial difference in government costs for Hawaii. At the same time, a report on public expenditures reflects how salaries were quickly increased and depicted the character of what was described as "the best government on earth".(81) There was further testimony then of favoritism and malfeasance in office. This charge stemmed from Governor Dole's practice of retaining relatives on projects from beginning with the overthrow and brought about the recommendation that suitable performance bonds be put up for contract work in the future.(82) Several government officers appointed by Dole were charged with defaulting and embezzlement and theft.(83) This included the "Chinese Fund" loss of $161,226.25 to pay the return passage of Chinese contract workers, in effect leaving them stranded in Hawaii.(84) This could have very well contributed to the congestion of Chinatown, leading to charges of unsanitary conditions threatening epidemics. But it can be asked what was "the best government on earth" doing about sanitary conditions?

A contemporary statement by John Emmeluth, a resident American, may help clarify some of the conditions of the period. He had resided in Hawaii for twenty-four years and had observed for fifteen years prior to 1893, a trend. He was to say, "during this interval an aristocracy of wealth had grown up in the little kingdom of Hawaii through the privileges and immunities obtained by the reciprocity treaty with the United States. That in the pursuit of the almighty

dollar, exploitation of cheap labor would cause the total political and physical annihilation of the native Hawaiian race".(85) Quoting from Thrum's Hawaiian Annual for 1890, he described how Hawaiians fared under the constitution of 1887. The tables show that while Hawaiians form 63.95 percent of the voters for representatives, they were only 35.54 percent of the voters for nobles, as property qualifications restricted voting for the upper house. The foreign element was thus able to manipulate legislation up to the time of the overthrow as a matter of policy and as their interests might dictate. He further states the political history of Hawaii since annexation is practically a perpetuation of former conditions with no constitutional limitations. He continues his testimony to say, "the Governor, by reason of his record in the movement for annexation, had placed himself in an unenviable position in relation to the Hawaiian race. By this unwise acceptance of the position of first governor of the Territory, he was confronted with the necessity of dealing with an element which had been for seven years held in subjugation by a constant show of force by the government of which he had been the head".(86) But it could be said in retrospect that Dole was rewarded with the governorship which was a policy for selecting heads of territories like Hawaii then and subsequently.

Although it was frequently claimed otherwise, it can be seen that there was overvaluing or watering of stocks by corporations. As an example, the Olaa Sugar Company in 1902 valued its real property at $2,373,248.00. But the value of all of the Crown lands for the same period of 971,463 acres was only $2,314,250.00. That would seem to imply that the Olaa Sugar Company held all of the Crown lands as their collateral. This is absurd but does depict what the practice at the time was. In fact, an inventory of the period indicated the Olaa Sugar Company possessed but 11,478 acres.

Secretary T.J. Ryan of the American Settlers Association of Hawaii testified in support of S.B. 1136. In doing so he quoted President Roosevelt in his message to the 58th Congress to say, "In Hawaii our aim must be to develop the Territory on the traditional American lines. We do not wish a region of large estates tilled by cheap labor rather a healthy American community of men who themselves till the farms they own."

Ryan continued to say, "To produce profit from land labor must be employed, whether it be hired labor or otherwise, or performed by the owner. Cheap labor has a natural tendency to create high priced land, and on the other hand high priced labor has a tendency to create low priced land. In Hawaii cheap labor and high priced land have prevailed but there is another reason for high land values, in Hawaii, overcapitalized corporations. A, syndicate usually foreign based, forms a joint stock company or corporation in agriculture. The corporation may have capital (on paper) about four times as great as the money actually invested. The land being the only visible asset must necessarily be valued proportionately to offset the watered stock. Each time the stock is watered the price of the land must increase to make the liability on the books balance. The purpose of this is not to till the farm the corporation owns as a healthy American community of men but to earn dividends on the watered stock by employing cheap labor."

Ryan was also to say, "It will be found in the record that this unsavory situation is politely called, 'existing conditions' by corporation

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lobbyists. Cause and effect is the proper rule by which Hawaiian conditions should be measured, or if you please to call them, 'existing conditions'. Corruption by any other name would smell as strong."

More than once during the hearings in Washington lobbyists, for the planters provided testimony neither representative of the will of the people, nor correct. They contended that the existing conditions in the islands did not warrant any change or review, and that local land laws were satisfactory to the people of the islands. Further, they attributed the high price of both public and private lands to the density of the population. When examined, this excuse is found to be false. In regard to the supposed satisfaction of the people with land laws, it is pointed out that in the last general election in Hawaii in 1900, 11,216 voters registered and 10,169 votes were cast in a hotly contested election related to public land laws and the public land administration. The important land issue likely decided the election against the local administration.

In the hearings, Nicholas Russell pointed out the extensive control that plantations exercised in many ways over their employees and charged that most of the economic and political power in Hawaii was in the hands of fifty-eight corporations, mostly sugar and large cattle ranches, which in turn were owned by fourteen companies composed of a score of the same individuals in various combinations. He also charged that nearly all of the improvable lands were owned in fee simple, or remaining public were held under long leases by this score of individuals who also control in some degree other business and governmental departments and influenced the judiciary. He added that the natives were peaceful, honest, requiring little support for material comforts or goods but possessed many talents and virtues and deserved a better future than was being offered.

To the everlasting disgrace of the 56th Congress, Section 73 of the Organic Act provision authorizing the Secretary of the Interior to review, confirm, reverse, modify, suspend any sales, grants or leases of the public domain in Hawaii was stricken out or not included.

One example was the Humuula Sheep Station held by three individuals who together retained the whole of the 1,000 shares capitalized at $100,000 and comprising 237,000 leased acres of public lands held by the United States. The sheep station lease and assets were sold to Sam Parker for $70,000 and gave Parker control of nearly 1,000,000 acres of land in Hawaii or almost one-fourth the total area of the Territory. A new company was to be formed later to address the strong demand for meat and to protect the meat supply of the Big Island with a firm of the caliber of the Metropolitan Meat Company, only this time probably on the lines of a "closer" corporation. Then it is pointed out that no less than the United States Senator Clark was a member of the new company.

Relative to this event, the Hawaiian Gazette in 1900 reported the transaction in a column headed "Meat for Hawaii" is nothing short of a Hawaiian meat trust, by assignment of lease of 237,000 acres of public lands which gave control to Parker of the property of the United States. To this record is added the report of A. Herbert, to the Bureau of Agriculture and Forestry plainly

showing that the very small holdings are not successful and the very large leases are frauds.

In the hearings it was explained that the omission of Section 73 was replaced by a provision inserted into the Organic Act at the request of the special agent of President Dole, that the President of the United States is requested to approve 22 separate deals whereby public lands of the U.S. in the Hawaiian Islands is disposed of to foreigners, none of whom were at any time citizens of Hawaii or the U.S. The U.S. is further asked to approve of as many more disposals to corporations. It is clearly evident that the land department of Hawaii did not want any investigations of "land laws of Hawaii or the proceedings thereunder", hence the untiring efforts of their lobby at Washington to have such provisions stricken of Section 73. In the place thereof, wholesale approval to be provided for without investigation.

In that regard, the Supreme Court ruled in Gibson v. Chateau, U.S., 13 Wall. pg. 92, with respect to public domain, that Congress has absolute right to prescribe times, conditions, and the modes of transfer. No state legislature can interfere or embarrass its exercise; that such interference with the primary disposal of soil of the U.S. shall never be made.

In the Hawaiian investigations there were a wide range of subjects. There were discussions on budgets, land leases, immigration and a host of subjects. There were even references to what the white man was doing as opposed to so much imported labor. It was pointed out that the white man could not work in the fields. He was not suited. But there was small reference to the limited monthly wage of a field worker of around $14 per month. However, the native Hawaiian would receive even more scant attention and it did not seem to matter in the investigations of him, his government, and his land.

The sale of Hawaii, its assets, and liabilities in the annexation for approximately $4 million was a small price to pay as the returns were rapid.(87) The benefits occurred only to those in government with industry ties, like sugar; little benefit came to the Native Hawaiian. But then one is reminded of what was said long ago in 1854 during the first annexation crisis. Then it was said, "to sell the kingdom to the United States and pocket something from the sale".(88)

PLOT REVIEW

We can begin by asking, who owned all of the lands of ancient Hawaii? The Gods did. This was an ancient Hawaiian belief. Homage and offerings were made to the gods for the privilege of using and caring for the lands of Hawaii. In this context native Hawaiians were not quickly to understand the concept of private ownership. Individual ownership as is the western practice, was different from a group enjoyment or sharing of resources. Living life and today's needs were the important considerations for natives. Storing or stockpiling resources or goods was not practiced. Natives felt if you gave of your labors you were to place your trust in the gods for a like return. With the western usage of land as a private possession, natives would be displaced from their original lands and crowded into cities in poverty.

Tracing what happened in Hawaii it can be found that when the first missionaries arrived in 1820 they issued blue laws straight from the books of old New England. Soon some turned from evangelizing to staking out claims upon the resources of Hawaii. Sugar was determined to be the best product for cultivation and had been cultivated by the Hawaiians since early times. Amos Starr Cooke was to write, "There are a great many foreigners arriving to take up lands and soon all the lands will be acquired by them. If this be the Lord's will, it may not be ere long before I acquire some for myself." The news of these activities reached the American Mission Board back in Boston, and a note of rebuke was dispatched to the enterprising churchmen in Hawaii. It said in part:

> If any of your number shall be betrayed into a spirit of worldliness and by that means acquire property the fact would have great notoriety in the country and become a most painful source of scandal.

The American Board of Commissioners for Foreign Missions severed its connections with the Hawaiian mission in 1863 and would attempt to restrain field representatives evangelizing elsewhere from straying from the primary religious functions.

In 1840 American businessmen called for protection of property rights. After the Great Mahele, foreign investments expanded and required more imported labor. The Rev. R. Armstrong in 1847 asserted that the white population would not permit itself to be governed by natives only and added prophetically that Hawaii may be eventually annexed as was so recently the state of Texas. It was in 1850 that three of five members of the King's cabinet, who were missionaries, in search of cheap labor turned to the Orient. A law was developed to provide for penal enforcement of all contracts without other limitations and had no provisions for government inspection or regulation. Also in 1850 the Royal Hawaiian Agricultural Society organization was formed and by 1880 had brought into Hawaii approximately 400,000 men, women and children. Agents had recruited from many parts of the world. The history of some imports were of cruel conditions. After arrival there were charges of harsh treatment and brutality even involving flogging. In mid-1925 a plantation manager was reported on his usual rounds to carry a whip and he explained that he was hired to produce sugar at a low cost without any other considerations. A similar expression was made at an annual Hawaiian Sugar Planters Association (HSPA) meeting in 1930 which read, "as has been emphasized again and again, the primary function of our plantations is not to produce sugar but to pay dividends."

For thirty years, from 1900 to 1930, natives were crowded into tenements ill-suited to their traditional way of life. In this atmosphere natives continued to decline in numbers and pure Hawaiians, who mostly crowded into Honolulu, had a death rate twice that on the outer islands.

Soon a few sugar planters at the top of the industry became feudal barons, with many imported races bound to the plantations by penal labor contracts, and workers described as being somewhere between serfs and slaves. There was no room for competition, if any business was attractive enough plantation owners saw to it that it was financed with sugar money. Profits from the plantations took care of all big business.(89)

What was created out of all of this was that a handful of men would exercise a harsh code. This would culminate in a system of political, economic and social control by the twentieth century. It was a process so foreign that it seemed impossible to exist under the American system. There was no true freedom in Hawaii under the oligarchy flying the American flag. It is a picture in which a tiny minority almost completely dictated the individual lives of the mass.

There are some reasons why the overthrow took place as outlined by one of the individuals involved, Charles Wilson.(90) There are also reasons the Queen wished to implement a new constitution. The Queen's Constitution, as compared to the "Bayonet" constitution of 1887, would contain only ten changes. The Queen's Constitution would permit her to appoint nobles numbering no more than twenty-four, while increasing the elected representatives to forty-eight. In the proposed constitution, property qualifications for voting would be eliminated and only subjects of the kingdom could vote. These appear to be rational changes and do not imply that all non-Hawaiians would be banished from the kingdom as was sometimes claimed.(91) In another supporting statement for Hawaiians, C. Gulick describes in detail what the Provisional Government forces were actually comprised of. Gulick was to testify the Provisional Government had no troops save about twenty-five supporters who could be described as deserters from merchant ships in part.(92) Gulick was also to state on the eve of January 16, 1893, perfect quiet and good order prevailed, not even a suggestion of disorder or danger to life or property of either citizen or alien appeared. A band concert at the Hawaiian Hotel that eve was attended by men, women and children of all classes as it was a fine, clear full moon night. Less than twenty-four hours later with American troops landed, thirteen white men, several of them lately arrived and not entitled to vote, appeared in front of the government building and read a proclamation under the ready guns of the American troops nearby to depose the Queen and abrogate the Hawaiian government. All of these activities taking place while there were more than five hundred men at the barracks and station house ready and anxious to assist the Hawaiian Government enforce law and order. But any action on the part of the Hawaiian troops meant a collision with the United States troops.(93) It does appear the native Hawaiian troops were held powerless by the artfully contrived plan to assume control of all the native Hawaiian government's powers and treasury. The native Hawaiian is still waiting for the restoration of his government and management of his assets.

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David Malo

It is obvious that these concerns voiced by David Malo in 1846 with regard to natives owning their own lands and possible sales of such lands were very likely an argument often used to explain why native Hawaiians have little land today.(94) If we are talking of the 28,000 acres allotted in the kuleana grants of the Mahele division, that is less than 1% of the total lands of Hawaii. There was not much land to sell from the kuleana grants and much of that land is still with the native Hawaiians today. But if we talk of adversed property which was largely anti-Hawaiian, it can be found that nearly all of adversed properties* in one way or another involved native Hawaiians. In this connection, the privy council members interested in the welfare of Hawaiians gave this advice, "two courses are open to you. Either to secure your lands, work on them and be happy, or to sit still, sell them and then die, which do you choose."(95)

So that possible sale concern is not the real reason for land shortages, but rather large land accumulations that deny many descendants today reasonable land which could have come from the Crown lands.

LAND ADMINISTRATION

When the Land Commission was formed in 1845, an effort at land reform was started, in the declared concept that "the land shall descend to the heirs forever". This was in effect intended to release the native Hawaiian from a feudal land system and the odious labor tax.(96) Today there are only 203,203 acres in small private ownership, 4.5% of the total, and perhaps another era of land ownership is in place which has actually decreased per capita holdings by about 30% in this period, when considering population totals. Almost 50% of the entire acreage of Hawaii is in large private land holdings. The question is, does this condition serve to make land more scarce and drive up land costs affecting reasonable housing? Hawaii has experienced a proportionately large population increase and further increase is expected. Affordable housing is important as Hawaii is very likely overpopulated already if the area of sustainable resources are considered and we are to be more self sufficient.

The total acreage of large private land holders is 1,923,183 acres. It can be said that these purchased lands will be productive ones as there is no reason to acquire non-productive land. On the other hand, the state and federal

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* Adverse Possession - see Exhibit "C"

government lands total 1,992,214 acres and include conservation lands not suitable for cultivation or ranching, nor can they be used due to poor terrain or inaccessibility. After 1893, a definite trend can be seen to acquire land in large private holdings by many means including overreaching. In this effort to acquire lands several questions arose and eventually the federal government did intercede to investigate land disposals in Hawaii, especially as the claimed title to the ceded lands was resting in the United States.

RAPID DEVELOPMENT

The native government had evolved rapidly by normal standards and may have continued to evolve into something more liberal or entirely different had there not been armed intervention in 1893. It has been said that the Hawaiian government could have survived till today without intervention and that it may have evolved into a republic.(97)

On one hand, while condemning the native government, those who seized it would retain it nearly intact for their manipulation. A question is, if the native government was a remnant of a barbaric slavish past as had been claimed, why assume and continue such a government?

ILLEGITIMACY

The record indicates that while assuming native governing powers and the control of the native treasury, the succeeding Provisional Government and Republic sought to retain on a continuing basis those powers assumed so unilaterally. This assumption and retention of governing powers provided for large embarrassments to the United States and its constitution. Not only was this a national problem, but there were internal domestic problems in Hawaii which contributed to the subjugating of native Hawaiians up until the weak Republic could conclude annexation. The subjugation by [illegible] is clear evidence of illegitimacy in a political system as is its need [illegible] a nation and its government that had a demonstrated popular backing.

ACTIONS AND THE LAW

The most important point is, if it is reaffirmed that contrary to the Morgan report, a conspiracy was carried out in 1893, then that casts a serious question of legality over all the subsequent events. This would include the annexation process and eventually statehood which failed to determine the native Hawaiian interest as opposed to the state in the ceded lands. Because of this ceded land oversight, the Admissions Act may have to be amended. The concern is how could these actions become legal if a conspiracy engineered an illegal government in the overthrow? The determination of this concern is of particular interest because we all live under laws as individuals and nations and take pride that civilization is possible by being law abiding.

PRINCE KUHIO OF THE HAWAIIAN HOMES

Prince Kuhio

In 1871 the son of a Kauai chief was born named Jonah Kuhio Kalanianaole. In 1893 he was twenty-two; in 1894 he was charged and imprisoned for participating in a counter-revolution to restore the monarchy. Known as Prince Kuhio, he was an heir apparent to the Hawaiian throne after the death of Princess Kaiulani in 1899 and was accepted as the living Alii Nui. As an amateur photographer in 1901 Kuhio took a trip around the world with his wife. While in South Africa witnessing the Boer War, he issued a statement that was printed in the South African Advertiser which said in effect, "We are going on a trip and will possibly select England as a permanent future residence. Our little nation has just recently been annexed by the United States and the loss of our independence is distressing to think about. We may not return to Hawaii again".

Prior to the Kuhio trip in 1901 the Home Rule Party was born in Hawaii just before the territory became a part of the United States. The Home Rule Party candidate, Robert Wilcox, a former Royalist, won the election as the Delegate to the U.S. Congress. Wilcox's seating was opposed by Sanford Dole who had been appointed the first governor of Hawaii by President McKinley. Wilcox supported homesteads for native Hawaiians and no restrictions on Hawaiians being able to vote. When the Organic Act passed, native Hawaiians were in a majority again and had a powerful vote, as in before the overthrow. At the same time under the Organic Act, Hawaii's governors were more powerful than any state governor. Unimpeachable, the governor could remain unaccountable to the public. He could make hundreds of appointments, suspend the writ of habeas corpus or place the Territory under martial law. The governor had great fiscal powers and possessed an unprecedented veto over appropriations. Education, welfare, safety, sanitation, health, highways, and public works were centralized under him.(98)

Meanwhile there were statements made that native Hawaiians were irresponsible and "If color is to rule an American Territory, the color will be white." The newspapers, the Gazette and the Pacific Commercial Advertiser, violently opposed the so called Hawaiian bloc vote, which would, it was claimed, restore the monarchy and drive out the Caucasians. To combat this situation the haole elite of the oligarchy appealed to Prince Kuhio's vanity and suggested he run against Delegate Wilcox in the coming election. A bargain was made and a political alliance was founded which would last for decades. Kuhio undoubtedly realized that to run against fellow Royalist Wilcox, he was being used to split the votes. It could have been his shrewdness outweighed his vanity: he would serve to benefit the native Hawaiian people, get jobs for them and key government positions. In 1902 Kuhio and the Republican oligarchy defeated Wilcox and the Home Rule Party and Kuhio was to remain popular for ten more terms until his death in 1922.

On November 23, 1903, President Theodore Roosevelt appointed George Carter as Governor. Carter had been a director of C. Brewer and Company and an oligarchy spokesman. This appointment was a slap in the face for Kuhio who was to complain then and later about consultation and patronage. Friends again advised Kuhio he was being used by the oligarchy. It was suggested that the Home Rule Party be supported against the Republican party, which it was claimed won the 1903 election by fraud.(100) The Advertiser attacked any suggestion that the Home Rule Party and native Hawaiians were fit for any self government. Kuhio apparently realized he was permitted to serve as Delegate because he could defeat the Home Rule Party and sustain a Republican legislature. Kuhio also agreed that, "It has been, and is, their stated Republican policy to put down every and all Hawaiians." He was to later write, "their attitude is, 'we don't want no Niggers in the legislature'."

In 1909 Kuhio presented Liliuokalani's claims against the United States, in Congress, without success. During his long tenure in office Kuhio was to introduce two statehood bills as early petitions for admission, believing statehood could limit the oligarchy's powerful grip on Hawaii and at the same time help Hawaiians.

In 1907 Walter Francis Frear was appointed governor. He was also an oligarchy representative and had been a Supreme Court Justice under the Republic. He was a director of sugar, railroad and pineapple companies. Control of Hawaii was being tightened and Kuhio was being bypassed. Unhappy with Republican appointments Kuhio spearheaded on amending the Organic Act to get a squarer deal for Hawaiians than they had gotten from the three appointed governors selected from the ranks of the oligarchy.

Before Kuhio died in 1922 he promoted the "Hawaiian Rehabilitation Bill" of 1920. He was to serve on the first board of commissioners as the bill became the Hawaiian Homes Commission Act of 1920. It pleased the planters in Hawaii with the repeal of the 1,000 acres limit restriction contained in the original Organic Act. The Merchant Street lawyers of the planters supervised the drafting of the Homes Act that specified which lands were to be Hawaiian Homes Commission lands. Kuhio had agreed initially to remove highly cultivated lands from existing homestead law so good cane lands were omitted. The lands designated were in remote areas and generally unsuitable for actual settlement. Only 2 percent of the lands set aside could be properly developed at reasonable cost. Undoubtedly, the bill was more of a triumph for the Merchant Street planters than for Kuhio, who may not have realized what was happening. In the requirements to qualify for Hawaiian Homes there was included a blood quantum of 50% or more. This requirement was to disqualify many Hawaiians and would eventually leave out the majority by dividing them into classes which sustains divisiveness. Kuhio is reported to have supported a blood quantum that could withstand five generations of intermarriage with non-Hawaiians or about a 1/32 percent native blood quantum. The planters opposed homestead associations and generally many land awards. Voting privileges to poor Hawaiians and Asiatics was also opposed by them. It would appear that even acquiring a piece of land for housing would be opposed by the planters in designating an arbitrary and restrictive blood quantum of 50% for Hawaiians to qualify for a homesite.

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THE POLITICAL PARTY

When Republican President William McKinley was elected it was pointed out that the British had taken over Hawaii once before in 1884 and Hawaii could still become a British colony like Hong Kong or be taken over by some other power. The alarmist imperialists of the McKinley administration, led by then Secretary of the Navy Theodore Roosevelt, issued secret orders to the commanding officer of the U.S. Navy at Honolulu to seize the islands and proclaim a protectorate at the first sign of foreign aggression. Earlier, the administration of President Benjamin Harrison had expressed similar views. These views complemented those of the elite Reform Party in Hawaii who felt, "Hawaiians do not have the character to serve as governors". In this light when the Republic was proclaimed, it was to be governed by an oligarchy. President Dole agreed with John W. Burgess, an educator, that government should be "placed in the hands of Teutons" and thereafter, large powers were concentrated in the hands of a few. For the next two generations after annexation, Hawaii remained under the firm control of the oligarchy with only one effective political party, the Republican Party, which offered limited opportunities to the majority.

But how did Hawaiians feel about all of this? About seventy years after annexation at a school house meeting in Kaneohe, the subject of aloha was being discussed by a mixed racial group. A Hawaiian told of his experience at age seven with the Provisional Government's police force, adding that the Republic was a police state then. He remained true to the Hawaiian government till today.

POLITICS AND BEHAVIOR

David Kalanianaole, Jonah Kuhio's brother, never forgave the annexationists for the overthrow of the Queen and became a leader of the Democratic Party as a consequence. Although Hawaiians were impressed at first with the arrival of new technology and a supposed superior new religion, they were bitter. Afforded employment as plantation workers, or even as policemen which was a necessity in a monetary economic system, most Hawaiians retained bitter memories towards Americans for dethroning the Queen and more so for alienating and gobbling up the land. Jonah Kuhio was to say in heated frustration to a congressional committee, "Your civilized nation insisted on bringing in liquor because of your commercial greediness; insisted that the Hawaiian government admit liquor into the Hawaiian Islands. Our kings had prohibited those things, but right could not prevail against might."

A sociologist's study by Bernard L. Hormann indicated Hawaiians simply withdrew in many cases to avoid discomfort. By withdrawing Hawaiians could keep from showing their bitterness and in many cases veil their true feelings towards those who they identified as responsible for their plight. As a prominent Hawaiian woman inferred on the eve of statehood, "Every Hawaiian remembers the past, and the past Hawaiian government with sadness, but we are now helpless to do anything about it."(101)

In both annexation and the statehood question, Hawaiians were effectively kept from expressing a clear view or negotiated preference. During the

statehood proceedings and conveyance of ceded lands, Hawaiians were in a minority and could not effectively protect their vested interest. It can be asked, who had a vested use and occupancy interest, identified from time immemorial as expressed under the Constitution of 1840 by the Land Commission and had not conveyed this interest by a prior act? What class of citizens were they that were out-voted by a majority of non-vested interest voters to deny them their land rights?

LABOR STRIKES AND REPRESSION

Honolulu Star-Bulletin

20 DEAD, ORDER RESTORED AT RIOT SCENE; FUNERALS THIS AFTERNOON

Up to 1850 all labor in Hawaii had been performed by Hawaiians and in that year the Royal Hawaiian Agricultural Society was organized to recruit outside labor.

From 1852 when 293 Chinese were brought into Hawaii until 1930, some 400,000 men, women and children were imported. Labor was recruited from the far corners of the globe. Most sought were illiterates, as planters considered illiteracy an asset to contribute to docility. It was claimed that imported labor had no more impact on the islands than did "cattle on the ranges" and "were primarily instruments of production". As such imported labor did not merit special coddling. Many imported laborers came expecting to go back when their contracts were over and they had made a stake.

The Masters' and Servants' Act of 1850 was passed to legalize contract labor, and boys from ages ten to twenty and girls from ten to eighteen could be apprenticed by their parents to a planter. Adults could contract themselves as indentured servants. Some terms ranged up to ten years. The "coolie" labor system was instituted and contrary to law, flogging for disobedience was common. At Kohala no "Kanaka" workers could leave the plantation day or night without consent of the manager or luna. Labor contracts were bought and sold, and workers were thrown into jail for breaking plantation rules. To control workers, a law carried over from the penal code of 1869, permitted police to arrest persons for vagrancy for leaving plantations if not under contract.

In this atmosphere of employing "colored" labor there were classes. Hawaii resembled a European colony. Immigrants comprised 75 percent of the population and the top 5 percent of the population controlled politics, land, enterprise, and labor. There was no middle class to speak of and the harsh treatment generated backlash. The black snake whip was to lead to retaliation, for the penal contract-labor system was in effect forced labor. There were many unreported altercations between workers and managers. Prior to 1894, 250 workers left a plantation on the Big Island at Kukaiau when a manager shot a worker. On Kauai at Koloa in 1894, a mob rebelled at the beating of a worker. In Kahuku on Oahu, workers protested an overbearing manager. At Paia, Maui,

workers roughed up a manager for docking their pay. In 1897 at Ewa, Oahu, a worker's arm was broken by a strong manager and workers marched on the City of Honolulu. Again at Ewa, a worker was beaten by fellow workers for speeding up production. On Maui, a large mob killed their own interpreter.

After annexation, living conditions did not improve. For many who came to work the plantation, there was disappointment with the bleak facilities offered. In 1904, two thousand men at Waipahu, Oahu, complained about wages. The workers did not know it at the time, but profits for the decade were high for sugar and their wage demands were to be denied. In 1909, a major strike took place only to founder for lack of leadership in the face of planter firmness. After the 1909 strike, brutality was reduced from previous levels. In 1920, a strike took place of major size. In this strike, Filipino labor was coordinated as many thousands of them would be imported to create a surplus to keep wages low on the plantation. Several races were used against each other to maintain a balance and for strike breaking. Police were used to retain power by rewarding the cooperative and punishing the opposition. With the rise of labor complaints and strikes, more paternalism appeared on the plantations after the departure of the contract labor system.(102)

What drove the thousands of workers away from the plantations? It was not the floggings so much as the dismal future of low wages and lack of advancement. As the H.S.P.A. President in 1930 was to say, "I can see little difference between importation of foreign laborers and the importation of jute bags from India".

EDUCATION

In 1840 Kamehameha III, following the advice of his advisors, initiated the first public school system and compulsory education. Five years later the public schools were on a tax supported basis. In 1854 the English language was adopted as the primary language to be used in the public schools, and the public schools became the meeting ground for all races except the elite oligarchy.

In 1896, Henry S. Townsend was made inspector general of Hawaii's schools. He was a "progressive educator" employing new methods which made powerful enemies in the islands. He spoke of democracy in the classrooms, a view far ahead of his time which would influence a change in Hawaii's educational system and existing life way of life. Under the Organic Act, Townsend was denied the top post of Superintendent of Education. But he left in Hawaii, an American colonial outpost, the early liberalism that would later challenge and finally overcome the power of the oligarchy.

In the twenty years after annexation the powerful and wealthy of Hawaii were unconcerned about education. Education was left up to a few "do gooders" and salaries were low, about $510 to $720 a year. In 1906 the mixed classes of Hawaii's children were reciting patriotic exercises as Lincoln's "all men are created equal". In 1912 a report of public school children reciting the Gettysburg Address presented a paradox. Everywhere outside the schools there were restrictions and even repression from the owners of wealth who had feelings of disdain for Hawaiians. The exercises carried on in the public schools had an underlying meaning: that of freedom and equality.(103)

A commission investigating Hawaii school children in 1911 found them to be better behaved, cleaner, neater, more attentive to their work and more amenable to suggestions from their teachers than in any other state. But not enough was being done to educate them. The average per-capita expenditure in mainland cities of equal size was higher. Hawaii would have to expend more by one-third to bring it up to average of a United States city with a population between 100,000 to 300,000. Teachers and staff were underpaid, nor was there enough maintenance or equipment for the schools. There was further pointed out the need for rural public transportation to public schools, and that a public kindergarten, unheard of at the time, should be provided.

There were arguments that Hawaii's unique tax system could not support a first class American public school system. Limited income taxes were for other expenditures, more was being spent on the police than on education. Real property taxes were very low. Hawaii's real property taxes were far below the median of a comparable American community although the taxable wealth in Hawaii stood far above most other comparable communities. The controllers of Hawaii's wealth did not permit the encouraging of American education for all. The intent was rather to perpetuate a docile uneducated plantation class. The truth was the oligarchy did not care about public education. A statement from the president of the Hawaiian Sugar Planters Association (HSPA) in 1925 attacked "visionary high-brows" believing all Hawaii's children could be educated to the "top rung". He continued that the Department of Public Instruction was spending too much money. Other remarks followed to the extent that education did not make for better supervisors or laborers nor prepare girls for motherhood. In 1929 the Honolulu Chamber of Commerce issued a supporting statement to read, "only the few highly qualified should be selected for higher education."

LAND CONTROL

It was described how large land holdings were acquired by corporations after the Great Mahele. As an example, three of four acres belonging to private owners were held by non-Hawaiians or their corporations by 1890. In order to get revenue from government lands, long leases for large tracts, at a small fee were given. For instance, in 1905 a long plantation lease paid an average rent of only two cents an acre, while Asiatic farmers had to lease small tracts for $50 an acre, and there was further no provision in the plantation lease for a sliding scale when the land or products increased in value. Homestead laws made it difficult to obtain homesteads or freeholds in Hawaii as the appointed governors favored sugar interests. As one oligarchy supporting governor put it, he had "little faith in homesteading". Eventually a law was passed to discourage speculating by homesteaders acting as straw buyers for plantations. For sixty years after the Mahele all but 36,000 acres of 213,000 acres was amassed by corporations. It was further felt by oligarchy members that the remaining 36,000 acres could be acquired by fake homesteading in spite of the law passed to curb such activity in 1908. In these cases, much land formerly leased to the plantations so cheaply, was purchased by them. In the process, speculators profitted and the Territory lost revenue from formerly held lands.

During this period of 1820-1930, control of Hawaii's corporations and wealth was exercised by a network of interlocking directorates. The same direc-

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tors served on the boards of different corporations that appeared to be competing with each other. The same representatives from the oligarchy's non-Hawaiian families who founded corporations served on nearly all of the forty corporations listed on the Honolulu Stock Exchange in 1938. Under this interlocking arrangement the major corporations in the islands were consistently operated.

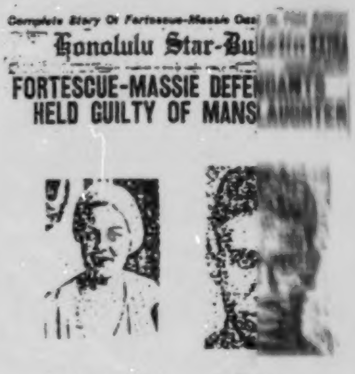
A 1930 census indicated that corporations or non-Hawaiian individuals controlled 2,578,733 acres, or more than sixteen times the acreage controlled by Hawaiians. Hawaii's oligarchy was thus able to accumulate and increase its hold on the wealth of Hawaii by this concentration. The oligarchy kept dividends high and taxes low to prevent a drain of funds off into the public sector. It was normal for corporations to average 10 percent dividends on capitalization in a year. In one nine-year period, the Hawaiian Commercial Sugar Company paid average dividends of 18 percent yearly. In 1920, the year of the big strike, Hawaiian Commercial paid 40 percent dividends that year to investors. At Kohala Plantation in 1911 a 45 percent dividend was paid; in 1916 a 40 percent; 1917, 38 percent; 1920, 49 percent; and in 1921, 60 percent. High dividends were steadily paid by other sugar producers during the period. The tax structure during the period favored owners and controllers of Hawaii's wealth. Income taxes were limited down and not graduated. Property taxes favored private owners. Taxation was borne by the general population as a whole, through school, road, poll, and excise taxes. The controllers of Hawaii's wealth did not agree that much money should be in the hands of government for public uses.(104)

RACISM

While there were many times in the past when native Hawaiians felt the pangs of racism, for the most part racism was kept beneath the surface and remained latent. In 1887 a sugar planter said, "I have an exalted idea of the destiny of the white man and of his power to control and govern both men and elements." In the framing of the constitution of 1887, planters in the Reform party admitted that discrimination existed, but said that "condition", not race, was the determining factor. "Condition" referred to propertized citizens versus those not propertied. It is ironic that "condition" should be a criteria, because if the natives could not vote how could they make choices to improve their present poor "condition"? But discrimination would become an open matter of race as "residents" of American or European parentage could vote while poor native Hawaiians and Asiatics could not unless born in the kingdom.

It was in about 1893 that Sereno Bishop in his attacks against them wrote that Kalakaua and Liliuokalani were the children of no less than a negro bootblack. At the same time the "commissioners" in Washington were seeking a territorial status because — as everyone understood — the islands had an embarrassingly mixed population with white men outnumbered.(105)

A peak of racism occurred on September [illegible]



Complete Story Of Fortescue-Massie Case [illegible]

Honolulu Star-Bu[illegible]

FORTESCUE-MASSIE DEFEN[illegible]
HELD GUILTY OF MANS[illegible]

Thalia Massie
Accuser

J. Kah[illegible]
Sl[illegible]

tary contended that the mixed races [illegible] rial form of government and self ru[illegible] form of government. Fortunately, [illegible] happen. But it reflects the power [illegible] citizens of Hawaii. It was with in[illegible] and resembled the interference of [illegible] government, treasury and assets throug[illegible]

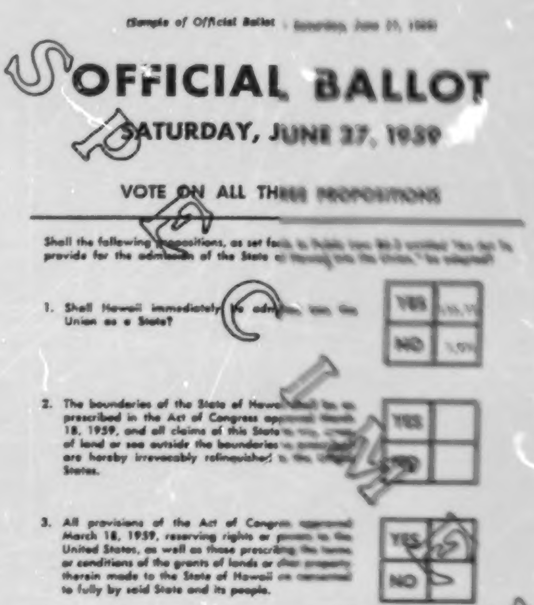
PATH OF STATEHOOD

STATEHOOD!

The first time the subject of statehood arose was in 1854 when Kamehameha III was being pressured into ceding his sovereignty. Kamehameha III would attempt to join the Union on terms favorable to Hawaiians as an equal state. There was opposition to Hawaii entering as a state with a predominantly native population. The business sector was not supportive of any change that might thereafter interfere with the importation of labor for field work. After that first episode, Prince Kuhio introduced two statehood bills in Congress while Delegate in an effort to relieve the grasp the elite oligarchy held over Hawaii and its people. Kuhio's successor, Delegate Houston, was also supportive and introduced statehood legislation into Congress. In 1940 a plebiscite was held to measure statehood interest. Two out of every three voters favored statehood. However, World War II intervened and the question of statehood was set aside. In 1950 a Constitutional Convention was convened without congressional authorization. The Convention's constitution was ratified by a popular vote of 82,788 to 27,109 favoring statehood. The Hawaii statehood bill died in the Senate that year but a unique pitch was made to make Hawaii a county of California instead. There were later statehood bills introduced but these failed to pass both houses of Congress. Over the years, many resolutions were passed by the Territorial Legislature calling for statehood. Many organizations in the Territory strongly supported statehood. Statehood and its virtues were widely promoted in campaigns. The issue of mixed races in Hawaii was raised frequently as a troublesome obstacle. There were many reports of Hawaiians actively and publically opposing statehood.

In June of 1958, Alaska became a state. After that the momentum carried Hawaii over the obstacles of the past and Congress voted approval on March 12, 1959. On June 27, 1959 the registered voters of Hawaii voted on three propositions. The first was to approve immediate admission into the Union. The second to define the boundaries of the state, and the third to provide the United States powers to make land grants.

EXPL[illegible] 19



(Sample of Official Ballot : Saturday, June 27, 1959)

OFFICIAL BALLOT

SATURDAY, JUNE 27, 1959

VOTE ON ALL THREE PROPOSITIONS

Shall the following propositions, as set forth in Public Law 86-3 entitled "An Act to provide for the admission of the State of Hawaii into the Union," be adopted?

1. Shall Hawaii immediately be admitted into the Union as a State? YES ☐ NO ☐

2. The boundaries of the State of Hawaii shall be as prescribed in the Act of Congress approved March 18, 1959, and all claims of this State to any area of land or sea outside the boundaries so prescribed are hereby irrevocably relinquished to the United States. YES ☐ NO ☐

3. All provisions of the Act of Congress approved March 18, 1959, reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Hawaii are consented to fully by said State and its people. YES ☐ NO ☐

To vote on a proposition, make an X in the square to the right of the word "YES" or NO".

VOTE ON ALL THREE PROPOSITIONS

SPECIMEN

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In the vote on the three propositions there is no identification of the [illegible] it is obvious it was [illegible].

RELATED EVENTS

Queen Liliuokalani on February 1, 1893 [illegible] came without success. Matters were to rest for years, until the 1970s.

It was in June of 1974 that H.R. 1944 was introduced in Congress as essentially a reparations claim for native Hawaiians. H.R. 1944 for $1 billion and surplus federal lands did not pass Congress. On March 19, 1975, Representative Patsy Mink of Hawaii in the U.S. Congress advised receipt of the Queen's petition from the Friends of Kamehameha relative to restoration. The Friends of Kamehameha in an executive meeting at Kawaiahao Church in Honolulu determined that the Queen's petition was a proper approach for the native Hawaiian community.

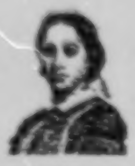
Following the first congressional legislation, H.R. 1944, came S.J.R. 155 which also failed to pass Congress, suffering a backlash against successful native claims around the country. On March 31, 1976, the Council of Hawaiian

Organizations (COHO) unanimously approved the proposal to disseminate information [illegible]

[illegible]

[illegible]

HEALTH



Queen Emma

Among the first hospitals to care for natives were those in Lahaina and Honolulu [illegible] with an appropriation of $3,000. The legislature approved this and by the end of 1860 the Queen's Hospital had been completed to care for indigent Hawaiians. The hospital in Honolulu might not have been built had not Queen Emma privately solicited [illegible]. She also left her estate to the perpetuation of the hospital. There had always been a need for native medical care. In 1859 Honolulu was given a low rating for medical care. Yet, though Queen Emma left her lands to underwrite medical care for Hawaiians, her wishes have been disregarded.

The native Hawaiian population does not fare as well as an indicated average compared to all other ethnic groups in Hawaii. They have a higher congenital malformation rate than the average, and the shortest life expectancy of any ethnic group in the State. The elderly are a group that need access to health care. The young of school age are high risk for illegitimacy, early pregnancies with subsequent health and social problems. Among those afflictions

native Hawaiian suffer from is cancer, having the highest cancer rate in the nation. It would seem that the indicators affirm that native Hawaiians have always needed medical care, which was [illegible] by Queen Emma and Queen Kapiolani in building the Kapiolani Maternity Home. The afflictions they suffer suggest a lack of funding for preventive practices to treat [illegible]. It would be said that with the shortest life span, native Hawaiians may be reflecting the need for medical attention that has been [illegible] but is disregarded. It is also pointed out that if one does not enjoy good health there is nothing to enjoy.

AFTERMATH

For a lengthy period the cumulative effects of [illegible]

[illegible]

[illegible]

[illegible]

SOVEREIGNTY AND TREATIES

Some past incidents are constructive to review. In 1898 the United States acquired the Philippines and Guam from Spain after the Spanish American War which the U.S. initiated. That same year the United States annexed Hawaii. In 1903 the United States quickly recognized Colombian rebels to establish the Republic of Panama. Interestingly the Republic was established by using a blockade to prevent the Colombian government forces from capturing the rebels. Thereafter the Republic of Panama for $10 million gave the Panama Canal rights to the U.S. in perpetuity. Much later, during the 1940s and World War II, the

adversary countries of Germany and Japan were to retain their sovereignty after their defeat. Further, these adversary countries were given many billions of dollars of taxpayers' monies to aid in their reconstruction. [illegible]

An exception to restoration would be Hawaii, also a sovereign nation although a small one. Hawaii was treating with other sovereign nations and had diplomatic relations with many countries.* [illegible]

After the establishment of the Provisional Government in Hawaii in 1893, there does not appear to be in the record any specific cancellation of the bilateral treaties with the U.S. [illegible]

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* England, Germany, Austria-Hungary, Italy, Russia, Spain, The Netherlands, Denmark, Belgium, Mexico, Chile, Peru and China represented in Hawaii.

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THE 49TH VERSUS THE 50TH STATE

[illegible]

[illegible]

[illegible]

[illegible]

In 1969 a [illegible]-page study of the Alaska Native land question was completed with suggestions on how to handle the problem. [illegible]

The President of the United States on July 8, 1970 in his message to Congress [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

The Alaskan Native Claims and the Hawaiian Native Claims movement have similarities, [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

DISCRIMINATION

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

INTENT AND PRECEDENT

[illegible]

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[illegible] right of refusal to sell and to [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Ulysses S. Grant

One option to address the native Hawaiian land situation [illegible] set aside native lands. Back in 1876 President Grant set aside as a reservation [illegible] acres of land to the Agua Caliente Indians. [illegible] California desert now called Palm Springs. In [illegible] the Indian Allotment Act was passed [illegible] years later in 1959 when Hawaii gained statehood, the Indians in the California desert were finally allowed to lease or sell the land set aside for them earlier in 1876. It was theirs, Congress said, and "without any encumbrance". [illegible] the native Hawaiians did not receive any land in 1959 like the Agua Caliente.

On their land the Agua Caliente pay no income or property taxes because that would be an "encumbrance". Later, after a long court fight, it was decided that the Indian's lands were not subject to zoning laws because that too would be an "encumbrance". Meanwhile the Indians state they wish to cooperate with the city government but prefer to have more density on their property for their purposes. Future negotiations will settle the matter.

Native Hawaiians may elect to also have designated their traditional [illegible]

EPILOGUE

The Native Hawaiian Study Commission in its attempt to address native Hawaiian problems faces two kinds of issues.

[illegible]

[illegible]

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ACKNOWLEDGEMENTS

[illegible] whom it never would have happened, and the support of [illegible] Federation of Natives (AFN) first president, is appre[illegible] wife Judy. Parts or portions of the information were [illegible] obtained from current newspaper articles. Other [illegible] are not generally found in research centers. Such papers [illegible]

[illegible] booklet has been reproduced in other forms. Any over[illegible] are acknowledged as those of the author and compiler.

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EXHIBIT "A"

[From San Francisco Chronicle, Sunday, Sept. [illegible]]

The government of the Sandwich Islands appears to have passed from the hands of the king into the hands of a military oligarchy that is more domineering than Kalakaua ever was. Before the recent revolt of the Europeans in Honolulu the press of the city was very plain-spoken. It printed unadorned truths about the king, and the latter made no effort to suppress such unpleasant utterances. Now, under the new régime, the newspapers are kept in check with military despotism. It seems incredible, but it is an actual fact, that not one of the Honolulu journals dared to reprint the comments of the American press on the so-called revolution, although such comment would have been very interesting reading to all Hawaiians. Even the reports of court proceedings are dry and matter-of-fact records, very different from the ordinary accounts. In a word, the freedom of the press of Honolulu is a myth under the reform party, and the man who looks for the facts in the Honolulu journals will not find them.

Star Makes the Scene

When the Hawaiian Star made its debut on March [illegible], its editor, Dr. J.S. McGrew, said the journal would represent "the merchants, tradesmen and professional men of Honolulu."

Pledging fidelity to the annexation cause and to progress, he wrote: "Apart from its character as a political journal, the Star will be, so far as the limitations of island life and distance from the centers of the world's activity shall permit, a modern progressive newspaper — one which shall keep abreast of all the events that enter into the sum of Hawaiian history and into the [illegible] development of America and Polynesia."

The first issue featured front-page business cards and a notice claiming that Roach Traps were needed to catch roaches in every pantry and kitchen in the Islands. "When you catch a lot," the ad advised, "put the trap in hot water so the [illegible] their [illegible]."

On July 4, [illegible], the Star reported that the "stirring events" surrounding the declaration of the Republic of Hawaii "reached their climax when, at the close of the Proclamation, President Dole invoked the Divine blessing upon the little ship of state just launched."

It continued: "The glory of the whole thing lies in the fact that a small number of people have taken complete control of a Government over many times their number for the common good, not for private ends, or personal [illegible] because the [illegible] of the majority had demonstrated the necessity for the assumption of responsibility by the fit and determined minority."

When government troops battled insurrectionists seeking to restore the monarchy, both papers went all out to provide late reports from the front.

Bulletin Goes Afternoon

After 1,[illegible] issues, the Daily Bulletin published this cryptic comment on May [illegible]: "While the Bulletin is strictly attending to its own business, there are about two thousand white men in this city who appear to be vastly interested in what that business is."

The next day, the Daily Bulletin dropped out of sight and was succeeded the next afternoon by the first issue of the Evening Bulletin — eight pages for a nickel.

Editor J.T. [illegible] wrote: "In politics, this newspaper will support the present form of Government and with that end in view, it has no affiliations with the supporters of any doctrine tending toward a monarchical form of Government in the Hawaiian Islands. It will maintain that an independent republic is best suited to the needs of the people."

EXHIBIT "B"

A Case for Reparations for Native Hawaiians

By Karen N. Blondin*

INTRODUCTION

Native populations in many parts of the world have experienced Western contact and domination. Although Westerners enjoyed the economic benefits of being the conquerors, they have been forced to confront the conditions and problems they created for the native populations because, in time, many of these problems began to affect Western interests.

Canada and Australia, among other countries, have a history of conflict between the aboriginal population and the dominant society. Although the aboriginal populations in these countries initially faced indifference and ignorance in their demands for redress, the governments there have more recently come to recognize and legislate for the native populations' needs. These countries now emphasize self-determination and the creation of a strong economic base. Clearly the recognition of aboriginal land rights is a crucial step in implementing these goals.[1]

Although the United States' history of contact with its aboriginal groups is not without blemish, the United States has also shown increasing concern for its native peoples. Programs aimed at benefiting Native Americans, and providing reparations,[2] have been the focus of much Congressional and judicial action. Reparations in the form of money and land have been given to Native Americans and Native Alaskans as compensation for lands wrongfully taken from them. In its efforts to provide reparations for its native peoples, the United States has, until now, neglected one important and deserving group: Native Hawaiians.[3]

It is the purpose of this article to show by comparison, that the case for Native Hawaiian reparations is just as strong as, if not stronger, than the case for Native Alaskan and Indian reparations. An examination of the history of the other aboriginal groups is critical to the analysis.

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*B.A., 1978, San Diego State University; J.D., [illegible], University of Hawaii School of Law. The author gratefully acknowledges the guidance, encouragement, and support of [illegible] (Professor of Native Hawaiian Rights, University of Hawaii School of Law) and John Van Dyke (Associate Dean and Professor of Constitutional Law, University of Hawaii School of Law).

[1] See text accompanying notes 40-66, infra.

[2] The term "reparations," as used in this article, is defined as restitution in the form of land or money or a combination of the two to Native Hawaiians for property illegally taken by agents of the United States military forces and government in 1893.

[3] [illegible]

EXHIBIT "C"

ADVERSE POSSESSION.

See Ejectment; Limitation of Actions.

Adverse possession as between tenants in common. See Tenancy in Common, 19, 20, 21, [illegible].

I. NATURE AND REQUISITES.

(a) ACQUISITION OF PRESCRIPTION IN GENERAL.

1. One who enters upon real property in pursuance of a parol agreement of exchange and remains in undisputed possession for more than the statutory period, such possession being open and notorious, may rely upon adverse possession in an action of ejectment. *[illegible]*, 4 H. [illegible] (187[illegible]).

2. Adverse possession dates only from the date of the land commission award, which interrupts previous prescription. *Kanaina v. Long*, 3 H. 332, 335 (1872); *[illegible]*, 4 H. 577, 583 (1883); *[illegible]*, [illegible] H. 338, 341 (1880).

3. The circumstance that the title claimed was void, or commenced in fraud of the law, does not detract from adverse possession under it. *[illegible]*, 4 H. [illegible], 577, 581 (1883).

4. The statute will not commence to run until a cause of action has arisen in favor of the person having the rightful title; in other words until he has been disseized by the person in possession or those in privity with him in the possession. *[illegible] v. Smith*, [illegible] H. 377, 379 (188[illegible]).

5. While it is true that adverse possession must be under claim of title it is not essential that there should be a rightful title. *George v. [illegible]*, [illegible] H. 33[illegible] (18[illegible]).

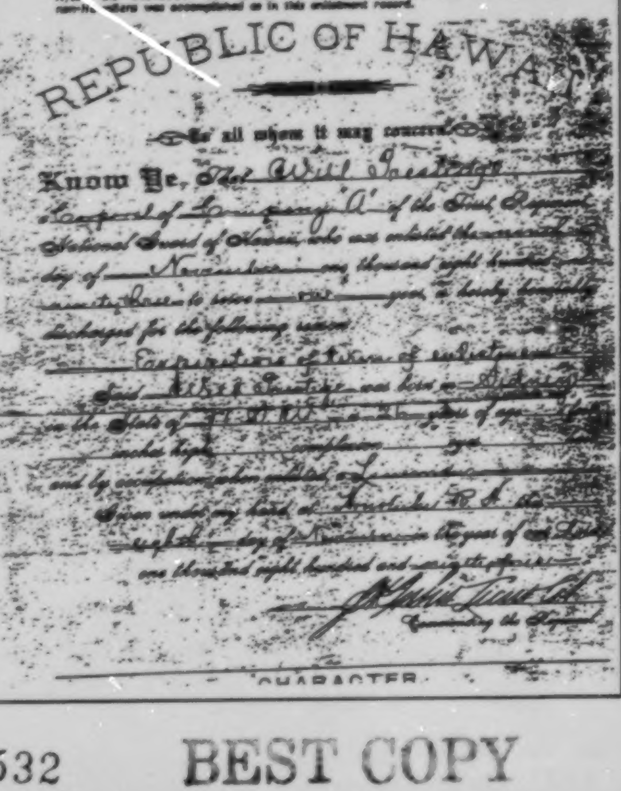
6. A parol gift of land followed by over twenty years' adverse possession cannot be disturbed. *[illegible] v. [illegible]*, 10 H. 4[illegible] (189[illegible]).

7. Adverse possession does not begin to run in favor of one holding under a tenant, even under an attempted transfer in fee from the tenant, until at least notice of the adverse nature of the [illegible] claim is brought clearly to the [illegible]

NOTE: Parol Agreement [illegible] of Mahele (Oral)

EXHIBIT "D"

After the overthrow the call for arms and enlistments from the ranks of non-Hawaiians was accomplished as in this enlistment record.



REPUBLIC OF HAWAII

To all whom it may concern:

Know Ye, That Will [illegible] Corporal of Company "A" of the First Regiment National Guard of Hawaii, who was enlisted the [illegible] day of November one thousand eight hundred ninety three to serve [illegible] year, is hereby honorably discharged for the following reason:

Expiration of term of enlistment

Said [illegible] was born in [illegible] in the State of [illegible] [illegible] years of age [illegible] inches high [illegible] complexion [illegible] eyes and by occupation when enlisted a [illegible]

Given under my hand at Honolulu, H.I. this eighth day of November in the year of our Lord one thousand eight hundred and ninety [illegible]

[illegible]
Commanding the Regiment

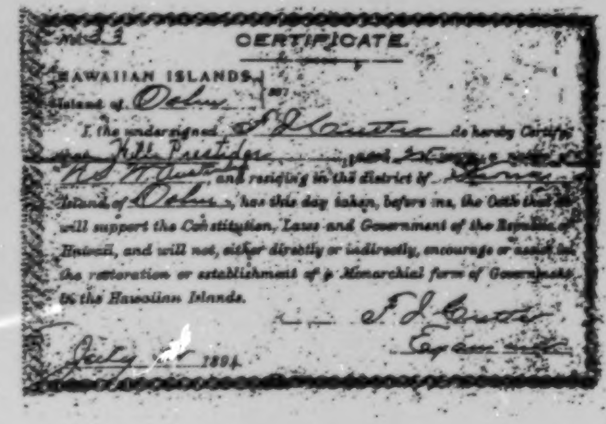
CHARACTER

BEST COPY

- 74 -

EXHIBIT "E"

The oath of allegiance to the Republic of Hawaii and the pledge not to try to restore the Hawaiian government.



No. 33 CERTIFICATE.

HAWAIIAN ISLANDS, } ss.
Island of Oahu

I, the undersigned, F. J. Cutter do hereby Certify that Hill Prestidge [illegible] residing in the district of [illegible] Island of Oahu, has this day taken, before me, the Oath that he will support the Constitution, Laws and Government of the Republic of Hawaii, and will not, either directly or indirectly, encourage or assist in the restoration or establishment of a Monarchial form of Government in the Hawaiian Islands.

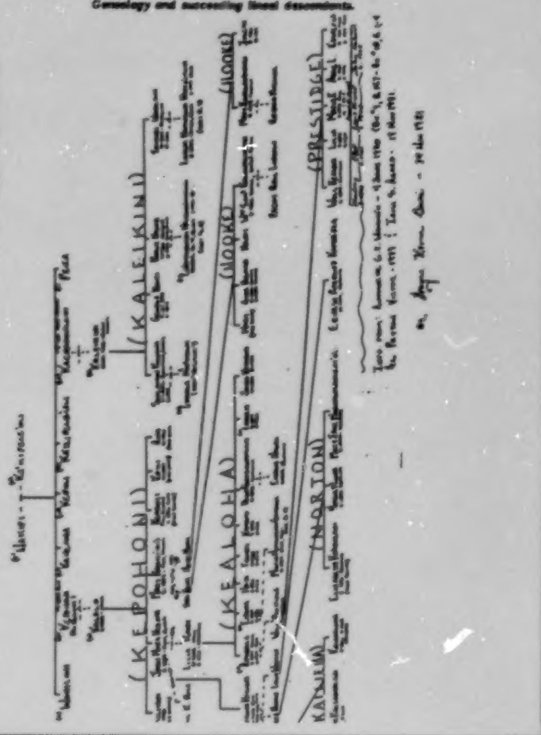
F. J. Cutter
Examiner

July [illegible] 1894.

- 75 -

EXHIBIT "F"

Genealogy and succeeding lineal descendants.



- 76 -

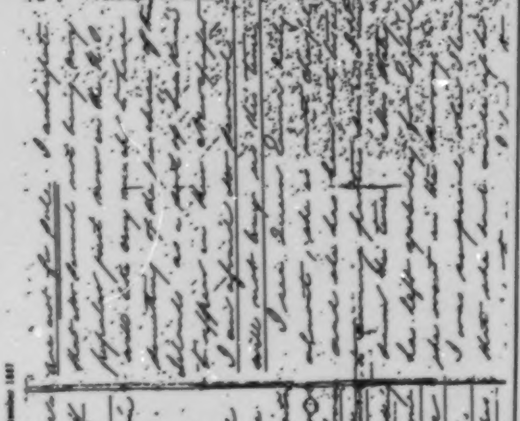
EXHIBIT "G"

A Letter from

King Kamehameha V

to The Bishop of Honolulu

Honolulu Palace, 24 September 1867



- 77 -

EXHIBIT "H"

MAR 7 1899

BEST COPY

EXHIBIT "J"

Testimony of Robert Wilcox relative to imported labor versus residents and homesteaders. Homesteading is generally discouraged as is the import of skilled tradesmen. The encouraging of a middle class is denied. There are few safeguards used in the import of labor.

No. 18.

Mr. Wilcox to Mr. Blount.

HONOLULU, HAWAIIAN ISLANDS, *April 25, 1893.*

Hon. JAMES H. BLOUNT,
United States Commissioner, etc.:

SIR: Referring to the amount of appropriations by the Government on account of contract laborers or coolies, under the guise of encouraging emigration, I present the following list of appropriations from 1874 to 1890, inclusive, amounting to the sum total of $1,315,000, as follows:

In 1874, encouraging agriculture and emigration	[illegible]
In 1876, encouraging of emigration	[illegible]
In 1880, encouraging of emigration	[illegible]
In 1882, encouraging of emigration (an act)	[illegible]
In 1884, encouraging of emigration	[illegible]
In 1886, encouraging of emigration	[illegible]
In 1888, encouraging of emigration	[illegible]
In 1890, encouraging of emigration	[illegible]
	[illegible]

If this country continues to be under the control of the sugar planters Hawaii will be only fit to be a house for rich sugar planters and their slaves—the paradise and inferno of the Pacific.

Yours obediently,

ROBERT W. WILCOX.

EXHIBIT "I"

THE LIBRARY OF CONGRESS
WASHINGTON, D.C. 20540

LEGISLATIVE REFERENCE SERVICE

A HISTORY OF THE ALASKA NATIVE CLAIMS SETTLEMENT OF 1971,
TOGETHER WITH A HISTORY OF THE DETERMINATION AND
DISPOSITION OF THE PROPERTY RIGHTS OF NATIVE HAWAIIANS,
BEING A COMPARISON OF THESE TWO SITUATIONS IN
THE LIGHT OF PROPOSING A SETTLEMENT OF HAWAIIAN NATIVE LAND CLAIMS

3. NO DISTINCTION WAS MADE BY THE HAWAII STATEHOOD ACT BETWEEN THE RIGHT OF THE HAWAIIAN PEOPLE TO TITLE TO PUBLIC LANDS IN THE STATE, AND THE RIGHT OF THE STATE TO SUCH LANDS; SUCH A DISTINCTION WAS MADE IN ALASKA

The State of Alaska was expressly prohibited by the Statehood Act of 1958 (85 Stat. 508) (Sec. 4) from claiming any right and title to land to which the natives claimed right and title. On the other hand, no such distinction between the rights of natives and the rights of the State was made in the Hawaii Statehood Act (73 Stat. 4) of 1959: title to all public lands in Hawaii to which the United States held title immediately prior to the Statehood Act were (with specified exceptions) granted to the State of Hawaii (Sec. 5(b)). No special consideration of the natives was made. In short, the Hawaii Statehood Act did not distinguish the right of the Hawaii natives to title to public lands from the right of the State to such lands.

The fact that this difference exists could, however, be used to support an argument that such a distinction should have been made in Hawaii; and that because it was not, the natives were deprived of their land rights, and thus are eligible for (monetary) compensation in settlement of those rights. This action (compensation) might be supported by the declaration in the Constitution of 1840 that "all the

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NOV 22 1982 Rec.

55 So. Kukui St D-404
Honolulu, Hawaii 96813
November 22, 1982

Chairperson Kinau Kamalii
Native Hawaiian Study Commission
Prince Kuhio Federal Building
Honolulu, Hawaii

Dear Chairperson Kinau Kamalii:

We request an extension of time, about 180 days, to respondto the Native Hawaiian Study Commission draft findings. A resolution to the issue of claims has been sought for nearly ninety years and the parameters are so broad that a sixty (60) day response period is not sufficient.

It is requested that the Native Hawaiian Study Commission consider the thrust of previously introduced legislation such as H.B. 1944, S.J.R. 155, S.J.R. 4 and H.J. Res. 526 which were pieces of legislation that attempted to address native claims. At times congress has acted favorably on some of this legislation although not fully passing any native claims proposals. A result has been to agreeing to formation of the Native Hawaiian Study Commission for further investigation of such claims. The present draft findings are lacking in several areas of concern especially that of suggesting remedies.

For instance, the finding that native Hawaiians are not compensable for taking aboriginal title lands or loss of sovereignty because of the absence of any existing law can be acceptable. However, what is a remedy? A consclusion can be drawn here from this finding that some congressional legislation is desirable to correct. Or that both land and sovereignty have no value for only being administered at present

2

and can be returned to native Hawaiians for their use and management.

It is clear native Hawaiians had already achieved a status of self sufficiency prior to 1893 to generate revenues for deposit in a treasury. There were many problems that occurred after the use of force in 1893 to deprive Hawaiians of their treasury and in effect redistribute their wealth and interests to others. The use of force has relagated native Hawaiians to a state of dependency. The Commission draft report cites several native Hawaiian deficiencies today. These deficiencies are only the symtoms of a larger problem of dependency. A dependency introduced by exappropriation of a treasury and ability to determine ones own priorities for the past almost 90 years.

Native Hawaiian management of their resources is desirable to generate revenues to address the many problems they now experience. It is particularly important the native Hawaiians administer as previously their assets and lands free of encumberance.

There are numerous other arguments that maybe carried into great detail. Essentially the issue is who owns the ancestral lands of Hawaii, quit claimed in a ceding ceremony in 1897 by the oligarchy, the Republic of Hawaii. The Republic of Hawaii was an illegitimacy without a mandate to carryout such an action. Today there are lineal descendents without a blood quantum who can trace their common vested interest recognized in the Great Mahele. The native Hawaiian vested interest can be confirmed by the property right recorded in the Kuleana Act of 1845 and still existant today.

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Your consideration of the foregoing factors is requested. Particularly since P.L. 96-565, the Native Hawaiian Study Commission legislation appears to be the vehicle to address all the prior congressional legislation introduced to address native claims.

It is evident thatgeneral agreement is necessary on certain particulars before any meaningful progress can be made. Some determinations are necessary, like native Hawaiians are aboriginal people with vested land interests and are not dependents. While native Hawaiians have not, or had the opportunity to negotiate away their interests, they have not benefitted by the use of their assets either.

Sincerely,

Louis Agard
Friends of Kamehameha and the
Bernice Pauahi Bishop Estate

Friends of Kamehameha Schools
and the
Bernice Pauahi Bishop Estate

55 So. Kukui St D-404
Honolulu, Hawaii 96813

January 24, 1983

Chairperson Kinau Kamalii
Native Hawaiian Study Commission
Prince Kuhio Federal Building
Room 3121
Honolulu, Hawaii

Dear Chairperson Kinau Kamalii:

As per the written request to your office on November 22, 1982 asking for a time extension to file a response to the commission's Draft Report, it will be appreciated if you will accept the accompanying comments.

A determined effort has been expended to make the new closing date for testimony. There is still much more that can be presented. However, the additional time afforded to make comments is sincerely appreciated. Please accept the remarks in the spirit they are made relative to the feelings of the Hawaiian community.

Sincerely,

Friends of Kamehameha

Louis Agard

COMMENTS
on
The Native Hawaiian Study Commission
Draft Report
P. L. 96-565

The Draft Report, consisting of some 365 pages has overlooked certain specific areas. Some of these specific areas of special concern are detailed in the following presentation. During the month of January 1982 hearings were held on P.L. 96-565 in Hawaii and in the many hours of testimony submitted, the issue of land appears to be a primary subject. Indeed the ceded lands of Hawaii are a substantial and very visible link with the past for native Hawaiians.

In the Draft Report, Chapter I, LAND LAWS AND LAND RELATIONSHIPS, appears to be a misunderstanding. There is the question about the entire draft having to do with the sources from which parts were drawn and suggests a conflict of interest. The misunderstanding is demonstrated on page 165, second paragraph, ref. 26 & 27 which states, "a one third portion goes to the common people, is erroneous". The following page 166, second paragraph, ref. 29 & 30 contradicts the first statement being erroneous to recite the opposite. The principal Hawaiian claim seems to revolve around whether they were given a land interest of one third the homeland by the vested interest they possessed. In essence they were given a "Parol Agreement", or law of by word of mouth grant, for the land. Not comprehending the initial understanding would lead to misunderstanding anymore that might follow after.

IMPORTANT & RELAVENT QUESTIONS

To attempt to put things into perspective and what is relative, certain basic questions can be asked that address the issue of Hawaiian claims effectively. They are as follows:

1. Was Hawaii and its people a sovereign and independent nation with international relations?

Answer:
Based on the score or more of treaties arranged between foreign countries and the findings of the U.S. Congress in the McCreary resolution of 1894 Hawaii was an independent and sovereign nation. The Answer to the first question is, YES.

2. Was there ever an identification that the lands of Hawaii did in fact belong to anyone?

Answer:
Based on King Kamehameha I statement that "all of the lands belong to the chiefs and people in common", the answer is again, YES.

3. Was there a further division and identification of lands to give the commoners (tenants) an identified one third interest in all of the lands of the Kingdom by the principle adopted in 1846 by the Land Commission which act was supported by the King as a grant and also approved by the legislature?

Answer:
All of these events are recorded and are a matter of history. The answer to number three is again, YES.

4. Did U.S. troops participate in and aid in the overthrow of the legitimate government of Hawaii and thereby assure the subjugation of native Hawaiians for seven years from 1893 to 1900. The same period which saw the annexation and naturalization of the majority of native Hawaiians without their participation or consent?

Answer:
All of these events are also a matter of history and the answer to number four is, YES.

3

5. Was also the result of seven years of subjugation of Hawaiians a period when laws were passed to allow for the wholesale acquisition of alienated Crown lands enabling fradulent acquisition by members of the oligarchy in the overthrow of 1893 and eventually saw the ceding of 1.7 million acres of native lands in the annexation to the United States?

Answer:
The answer to number five is, YES.

6. Are there any indications a conspiracy was carried out in the events of the overthrow of 1893 in Hawaii?

Answer:
There are events of rocord that show that certain individuals in Hawaii who were citizens planned to overthrow the queen. There are incidents of complicity by U.S. government officials and the statements of the under-secretary of the Navy to substantiate an intent to form a protectorate and to annex Hawaii.

7. A basic question is, who owns the ancestral lands of Hawaii? Who had an identified interest in all of the lands in Hawaii and had not conveyed that interest away by any act?

Answer:
Native Hawaiians had an interest in all of the lands of Hawaii, as identified by the Land Commission of 1846.

By these seven foregoing questions it can be seen that when the use of force was applied in 1893 native Hawaiians were subjugated and their land alienated while they were held powerless to contest their annexation and naturalization. The larger issue is the commoners common interest in the ceded lands and how this interest maybe restored.

On behalf of these concerns the following categories of relationships are commented upon. The foregoing questions may assist to identify the root cause of the many apparent deficiencies that native Hawaiians experience.

4

SUMMARY OF CONTENTS

The following comments are made in response to the Draft Report of the Native Hawaiian Study Commission. The areas of concern are:

LAND & HOUSING:

To point to the highest housing costs in the nation and at the same time the need for some 40 to 50 thousand low income families for homes.

BLOOD QUANTUM:

To point to the division and problems caused by the inconsistency of the Rehabilitation Act of 1920.

RELIGION:

To trace the origin, proscribing and intolerance, leading to the neglect of religion.

PRIVATE SECTOR:

To demonstrate how well land based service agencies serve the Hawaiian community and point out a way for the future;

CRIME & DELINQUENCY:

To clear away surface appearances, and identify the root cause of crime and discrimination.

LAWS:

The origin of laws, their perpetuation and applicability to Hawaii and all of its citizens, as developed by the early culture of native Hawaiians.

EDUCATION:

What are identified as the needs of Hawaiian children and some programs that have helped in the area of concern.

5

JOBS:

Hawaii has a bleak outlook for jobs, many younger people leave for jobs elsewhere basically because jobs in Hawaii pay less and the agricultural aspect due to zoning and other conditions are not conducive to agriculture.

TOURISM:

The number one industry, its operations, its benefits and related costs with a boom or bust outlook.

FRESH WATER & LIFE:

Perhaps Hawaii's most fragile resource, its limits and future uses or conservation.

VALIDITY OF REPARATIONS:

A history of native Hawaiians relative to their interests being subordinated to others on a continual basis reflecting insensitivity.

FORMING THE UNION & TODAY:

Some comparisons and solutions for Hawaiians in the future to better themselves and their children's futures.

TREATIES:

The process of treaty making between Hawaii and the United States. The intents and the present status.

ARCHIPELAGO CONCEPT:

The existence of the Hawaiian Archipelago, it future value and management benefits to native Hawaiians.

COMPARATIVE SERVICES:

Agencies serving native Hawaiians and an analysis.

6

POPULATION:

Population and its impact on Hawaii, the future outlook with some alternatives for adjustments.

LAND VALUES:

A projection and comparison of land uses in Hawaii to arrive at an estimated worth.

LEGACIES:

The parallels of constitutions, constitutional government and the option to restore that held in suspension.

REAL ESTATE:

The activities of merchandizing land, the existance of highly promotional campaigns to develop subdivisions and the effect on the community.

INDUSTRY:

Evolution of Hawaii industry and its future health. Some conditions that may assure a viable community without overcrowding.

INDUSTRY & POPULATION MILESTONES

The year dates that significant events took place in Hawaii to influence its evolution.

CONCLUSION:

Based on how events have affected native Hawaiians, a choice they might make.

RECOMMENDATIONS:

Listing the areas of declining participation and some reasons. Also a solution to overcome deficiencies.

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LAND AND HOUSING:

When U.S. minister John L. Stevens encouraged the raising of the American flag over Hawaii in 1893 he was to set in motion a process to advantage some at the expense of others. Stevens it might be said, at the point of a gun began the process to redistribute the wealth of the native Hawaiians. By Stevens single act native Hawaiians would be subjugated and obliged to become dependent to the extent of accepting paternalism. Prior to this subjugation native Hawaiians were self determining. With this enforced change, over the years since it first took place, several problems have developed. There is a problem of land, its availability, adequate open space and access. All three of these assets are now items that need to be addressed. A relative consideration is the availability of water to keep land productive as in the past for self sufficiency. It is apparent that the problems that have developed. are only the symtons of a deeper root cause by the subjugation and denial accomplished when Stevens raised the American flag over Hawaii. This relatively simple act of raising the flag frabricated a cloak of respectability to illegitimately control Hawaii and its people in a manner contrary to U.S. Principals of law and its constitution. When annexation of Hawaii took place and native Hawaiians were mass naturalized, they were to lose in that action their political and land interest in their homeland to the advantage of those who hailed the raising of the American flag, which in effect flew only to protect those interests versus native Hawaiians.

There was not much to rejoice about from 1893 through 1900. Nor is there at the present, with nearly the staus quo prevailing. The large land acquisitions of the past remain to assist land development and fuels the practises of speculation that first encouraged fraud and overreaching for lands in Hawaii.

Relative to this fact, about 60 years after the Mahele land division of 1845 about 1,800,000 acres were acquired by non-Hawaiians or their corporations and this meant that every three out of four acres belonging to private owners, were thus held by non-Hawaiians. This was accomplished by fake homesteading and putting up "straw buyers" by the corporations.

After 1893 large corporations controlled 1,963,600 acres and by 1895 the Dole Land Act was passed to alienate and sell off more native Hawaiian Crown lands. After the Dole Land Act passed, its intent was clear, large land leases and awards were made involving overreaching and fraud as reported in the Hawaiian Islands, Hawaiian Investigations reports of 1903.

In the investigations one incident involved the Humuula Sheep Station of 237,000 acres. The sale of this station gave to San Parker control of nearly one fourth of all of Hawaii"s lands or 1,000,000 acres. Salos like the Sheep Station sale were made possible by corporation lobbyist to ensure the failure of the U.S. Congress to require in the Organic Act of 1900 the provision that the Secretary of the Interior review sales, leases or grants of the public domain. After 1900 the ceded lands were considered the public domain.

How land transactions took place after the passage of the Dole Land Act took place in 1896. Then, William Irvin, a wealthy sugar planter purchased beach front and other choice lands in Waikiki for only one dollar that had been set aside for public park purposes. Irreplaceable lands on the Waikiki shoreline were acquired by members of the Republic's government which was spawned when the American flag was raised over Hawaii in 1893. These acquired lands were part of a 300 acre park envisioned by Kalakaua and named after his queen Kapiolani. The park was designed by Archibald Cleghorn and brother-in-law of Kalakaua. The park was for posterity and the general publics use. Kapiolani park today is irregular and the state wisely wishes to flesh it out by purchasing the sites acquired by Irwin and others after the overthrow. It may cost a considerable amount to do and possibly prove too expensive to recreate the park Kalakaua planned.

It was in 1930 that a census report indicated that corporations or non-Hawaiians controlled 2,579,733 acres, or more than sixteen times the acreage controlled by Hawaiians. The raising of the American flag in 1893 created under it an oligarchy that accumalated lands and thus increased its hold on the wealth of Hawaii by this concentration. The olgarchy kept dividends high and taxes low to prevent a drain of funds off into the public sector. The controllers of Hawaii's wealth never agroed that much money should be in the hands of government for public uses.

It would seem that statehood in 1959 would only serve to further alienate the native Hawaiian from any interest implied or otherwise in his native homeland. In April 1982 a report indicated that Honolulu has a hypothetical urban middle income of $31,893 on which it costs to live and thereby is America's most costly major city in which to live.

Today there are only 203,203 acres in small private ownership in Hawaii or only 4.5% of the total land in the islands. There are 4,126,600 total acres of land in Hawaii, nearly 50% of this is in private ownership. Nearly 1,000,000 people in Hawaii only own 203,203 acres of the total and this may well serve to drive up home costs, because of scarcity in a supply and demand market. This suggests another land regime is in place to sustain the early land accumalations. Nearly all of the privately owned lands, being acquired lands are the better lands as there is no need to acquire by purchase poor lands.

Rapidly tracing the history of the ceded lands it can be found that they comprised approximately 2,478,000 acres in 1848. In 1893 there were about 1,9 million acres. The Republic of Hawaii ceded some 1,7 million acres in 1898 and today only some 1.3 million acres remain of the dwindled amount containing the native Hawaiian interests. Much of the remaining land is poor land or inacessible and in conservation with the best lands under cultivation or acquired for development.

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11

These factors contribute to Hawaii having the highest housing costs in the nation as outlined in a recent First Hawaiian Bank Report. Land makes a home expensive and scarcity will accomplish this. The publication report cites $184,559 as being the average single family cost of a home in Honolulu while the average of a similar home in San Francisco was $133,900 or $50,000 less.

When the cost of a home in Hawaii is measured against the average income of a native Hawaiian who has a disproportionate low group average income in the state the great disparity can be seen. A home is practically out of reach.

Why? One answer can be that in Hawaii the arrival of foreign corporations or syndicates operate in the region in profit making ventures using preferably cheap labor. Hawaii has a history of cheap labor supported by the encouragement of immigration. Today large capital investment in Hawaii from foreign sources will still speculate, largely in real estate ventures as do the investors from Canada and Japan. There is no consideration of local housing needs in these undertakings, rather to cater to the more affluent who can afford a $184,000 home. The speculation in real estate has been an influence in the failure of a number of savings and loans firms recently in Honolulu that are taken over quietly by the government to avoid publicity.

On the other side of this situation there is an indicated need for some 40,000 homes at the present which will require some $2.4 billion to build. So on the human side

12

while the average home in Hawaii is $184,000 there are many in the lower income bracket and other single parent families that cannot afford to buy a home and single parent families have special problems finding rental housing. The future is clear that native Hawaiians will be forced to move out of their homeland by these conditions if preventitive [illegible] are not taken to correct the trend. This fact has been recognized and already expressed by a congressman as unfortunate but inevitable because of the desirability of living in Hawaii. But does being forced to move out of the homeland make it fair?

Since by the states own estimates that some 40,000 homes will be needed, those needs are for the present and future needs can be imagined with a normal population increase. Hawaii will not be a "special place" it is so often touted to be. Native Hawaiians have not earned the plight they now suffer at the hands of the many transients who have come to exploit the region for profit and move on in the name of progress and the American way. In that connection Hawaii needs more competitive entrants to lower the costs in areas and remove the constraints that inhibit competitive costs. The area of financing is one that native Hawaiians can correct with their own participation.

The raising of the American flag in 1893 has in effect left native Hawaiians defenseless and unable to control their destinies and some adjustment is rational. Native Hawaiians should be equals, able to manage their ancestral lands not

13

sold after the seizure in the overthrow of 1893 and to generate revenues for their direction into selected channels.

In this connection of land use, it can be found that housing is inter-related with water resources. On the island of Oahu water demands are considerable. In fact so much so that there are occassions where water conservation is requested or regulated. This means that there can be a nearing to the limits of the resource.

Also in that respect, it can be found that the staple, taro, a food of Hawaiians has been shrinking in supply due to a lack of water or its diversion. It requires millions of gallons of fresh water per day to cultivate the traditional food of native Hawaiians. This water supply has steadily been diverted to supply domestic use for subdivisions and condominium construction. Without an adequate water supply the taro is rotting as it rests in the patches. While this maybe acceptable in some cases, this practise defeats the process of natural selection and control of population by availability of food. It is entirely possible that the population achieved by natives was the optimal of some 400,000 individuals at the arrival of Captain Cook. This was probably reached after centuries of existence based on the regions resources. In Hawaii the island of Oahu is overly populated based on its resources and the entire region requires large imports to sustain the populace. Being dependent on supply services raises the spectre of interruptions that do occurr from time to time but is it necessary to increase outside dependence even more than it is now? There are additionally garbage and [illegible] dis-

14

posal problems already to be affected by the Enviornmental Protection Agency's guidelines in a massive multi-billion dollar program. Hopefully Hawaii will not be adversely affected with its population expansion.

History shows that the food supply was a population controlling factor and that infanticide including fetuscide was practised in Hawaii likely to keep within population limits.

It is obvious that the staple native Hawaiian food, taro is due to scarcity too expensive for native use and is the most expensive staple on the market. Compared to rice which averages 20¢ per pound and Irish potatoes at 30¢ per pound as reported in a shopping basket survey during June 1982, taro to make poi is 10¢ per ounce or $1.60 per pound. Even if food prices are high in Hawaii the native staple is even higher proportionately although food prices in Hawaii are consistently higher. Hawaii has the dubious honor of having the highest food prices in 21 cities across the nation. Because of these conditions it can be said that native Hawaiians are deprived of the traditional staple, taro through no fault of their own.

The other staple that native Hawaiians have enjoyed were fish resources, largely protected in areas close to shore or in man made enclosures. These fish resources have been depleted or destroyed by construction and contamination.

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15

The largest natural fish pond in Hawaii was Pearl Harbor, the exclusive use of which was granted to the U.S. in the Reciprocity Treaty of 1887 as a cooling station for a period of seven years. The Treaty should have expired in 1894 or one year after the USS Boston's marines aided in the overthrow of 1893 and might have well been a reason for their involvement. Pearl Harbor was a rich resource for fish stocks. Today the harbor is contaminated with bunker C oil not to mention ship discharges both regular and nuclear from ships and includes chemicals and some toxics. These chemicals and discharges affect healthy fish stocks including the prized anchovy (nehu). The ancient fishing rights of Pearl Harbor have been ignored and access is now limited to military personnel to fish except that the nehu maybe taken by permission when available.

The large Kuapa pond in Hawaii Kai on Oahu was used to raise a favorite fish, mullet. It has been mostly filled in and dredged and no longer provides the resource it once did. The Salt Lake area is another site filled in for development to continue the destruction of natural areas used to raise fish resources.

Even the condemnation of shore line fisheries were proclaimed but never fully accomplished and satisfied before opening them up to unrestricted public use. This action only added to the overexploitation of these resource areas. Today the once regulated and ample native Hawaiian resource is not available and another native Hawaiian staple has been taken away.

16

With the change of diet and denial of staples the native Hawaiian could be reflecting in their many medical problems they suffer this lack. Taro is recognized as a complete food with many important nutrients. Statistics reflect native Hawaiians have several medical problems that have appeared related to diet in other instances. Yet if it is a diet deficiency and the cost of the staple has been placed nearly out of reach, then a change back to something more healthy seems reasonable. Fish and taro (poi) were native Hawaiian staples that they have lost along with the direction of their futures and lands to their detriment.

In Summary the issue is, the land is for those already here and because of their roots have a vested interest who care about what happens to the land. It is not to be cut up and merchandised and speculated upon to the highest bidder.

17

BLOOD QUANTUM:

The history of blood quantums can be traced from Kamehameha I when no differentiation was made in accepting John Young (Olohana) and Isaac Davis (Aikake) as chiefs with native wives in the native councils. The Constitution of Kamehameha III in 1840 does not cite a blood quantum. In 1844 the stated policy of the period explained, "It will be necessary to employ a few foreigners of high character in offices of trust and responsibility in order to sustain the relations of the Government with other governments." The system of polity of this period, 1844, was to create a Hawaiian state by the fusion of native and foreign ideas and the union of native and foreign personnel to work for the common good." Further as in the U.S. Constitution all the Hawaiian constitutions do not specifically cite a blood quantum necessary for participation. A blood quantum can be described as a condition resulting from isolation and inter-breeding for purity of blood line but which may have little relativity regarding succession and participation for benefits. It is not mandatory in humans and some benefits appear in the mixing of the races.

There was no specific blood quantum in the will of the alii, Princess Bernice Pauahi Bishop to establish the Kamehameha Schools to service Hawaiian descendents. There is no blood quantum required for beneficiaries of the Queen Liliuokalani Childrens Trust. There is no blood quantum in the Native American Act designation to be eligible for benefits to native Hawaiians. It would seem the designation of a blood quantum in the Hawaiian Rehabilitation Act of 1920

18

and repeated in the 1978 amendment to the Hawaii state constitution limiting conditions for benefits was an aberration. Considering the period the blood quantum was concieved, 1920 such designation was overly restrictive.

The Rehabilitation Act of 1920 by its title was a misnomer. There is no great apparent difference between the present descendents to reward some and deny most others. Perpetuating this discriminatory practise ensures no one will qualify for benefits eventually in the long term.

By a parallel example it can been seen that to confine natives to a tiny parcel of poor land by terms of the Rehabilitation Act of 1920, and many times without water to rehabilitate him is similar to placing aman in the middle of the ocean without oars to save himself. He is surrounded by water he cant use or work and it becomes an impossibility to help himself. The foregoing example is similar to surrounding a man with good land he cant use or work but give him a poor parcel in the middle without water to till to help himself. The passage of the Hawaiian Rehabilitation Act promptly disenfranchised the majority of Hawaiians. The businessmen planters opposed voting priveleges to natives and also homestead associations and it appears that this philosophy would also mean opposition to a parcel of land for a homesite in any case. The Rehabilitation Act created classes of Hawaiians and divides them which sustains divisivness. There can be no cohesivness or general direction for natives as long as they remain divided by an arbitrary blood quantum for benefits when the universally accepted

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practise is to accord benefits by succession. Strangely even succession can be jepordized in the application of the Hawaiian Rehabilitation Act of 1920 with a blood quantum requirement. Even if a native Hawaiian sought to integrate and join the mainstream he would be hampered by the terms of the Act requiring a blood quantum to qualify. He must forego benefits to integrate. Although Prince Kuhio, delegate to the U. S. congress and initiator of the Rehabilitation Act encouraged integration by supporting a 1/32 blood quantum or that quantum that would permit five generations of inter-marriage with non-Hawaiians.

The Act has been cumbersome to administer and natives have suffered under it for long enough. Although the department under the Act should continue to exist, a closer relationship to the beneficiaries is desirable.

In conclusion the indications are that blood quantums are not applicable and werenot used by the record in the past. It is more appropriate that the practise of succession prevail waiving the blood quantum requirement after giving preference to those of purest blood first.

RELIGION:

It is obvious that native Hawaiians developed a system of worship unique to the regions lands and similar to how native people generally develop a reverence for the earths replentishment capacity and bounty. All undertakings were preceeded by ceremonies paying homage to a diety. In this light the raising of the staple taro was to take on a significant religious aspect. For it was the giver of life and that capacity is being diminished. All of the lands of Hawaii were gods lands and supplications must be rendered for ensuring its bounty. By these activities native Hawaiians attained a high degree of cultivation which is attested to by reports from observations at the time of Captain Cooks arrival in 1778 and subsequent to that first landing. The lands were in the highest state of cultivation and this was observed on all of the islands visited.

At the same time the conduct of worship was also observed and appeared to be an unselfish practise to obtain favor and blessings for the entire community.

The conduct of early Hawaiians could be exemplified by their religionwhich was friendly and welcomed strangers. The first encounters were not savage meetings although later contacts were to become violent and the image of savagery was to be attributed to native Hawaiians. But it was not considered savage to slaughter them with cannon nail and chain shot on occasion. Although if they retaliated it was savagery.

It does seem contradictory, but the first reports de-

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scribe natives as peaceful, happy, healthy and an organized society. It can be said native Hawaiians made the lands they discovered on arrival productive lands by the practises they developed and applied in cultivation. Their system of composting proved to be successful to keep the land producing without acceleration of chemicals. Enough staples were produced to support a population of some 400,000 people. They learned to share as they must and had the most to offer newer arrivals even if it made their own lot less convienent to divide food supplies and other comforts. There was not much newer arrivals could offer except non-essentials; they came with literally the shirts on their backs.

A bond developed of faith in the land that was to permeate other aspects of native life if not all of it. This faith exhibited itself in offerings and trust that indulgence would be rewarded inkind. The art of healing required faith in the supplications and achieved the goals many times sought for healing purposes. Some practises survive to the present even if somewhat evolved. There are practitioners today in the application of Hooponopono, the embracing of past lives and cleansing for self, the land and material things. Some of the ancient practises survive in competition with the other newer arrivals. The question is how do they compare and what do they have to offer the native Hawaiian in his homeland.

Hawaii now presents and also embraces a panorama of religions. An early reference to religion in Hawaii was an incidnet involving Captain Vancouver who advised King Kamehameha I of the supreme western god. Kamehameha a

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staunch supporter of the indegenous religion (~~[illegible]~~) is reported to have said, he would believe in other gods if both he and the diriple of such a god could both jump off a high cliff and be unharmed.

During the transition to the conversion of Hawaiians to Christianity, the first of the new religions to arrive were the Congregationalist in 1820. With the blue laws of New England in tow they began by proscribing every tenant of the Hawaiian religion.. They declared the new religion was superior and the native should challenge their gods and no harm would come to them. No harm came in the challenge and the conversion was accomplished. All of Hawaiian conduct was tied to their religion and this introduction would destroy the knowledge and continuity while creating a gap between the generations. This wold lose for the descendents their identity, nationhood and pride or respect of their elders andculture. By design or otherwise.

Hawaii would become a rich ground for religious orders. After the Congregationalists came the Catholics in 1827. Even the Catholics abhorred the conduct (~~of the conduct~~ of the Congregationalists in their relations with native Hawaiians as they proscribed every aspect of native culture. Implying that their culture was superior. The Mormon Latter-Day Saints arrived in 1850. The Methodist in 1854 and the Anglican Church in 1862. Meanwhile in 1852 Chinese Confucianist, Taoist and Buddhist sects had arrived.

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Similarly, Japanese forms of religion followed in 1885. Five of the main forms of Mahayana Buddhism were established in Hawaii: Shingon, Jodo, Jodo Shin (Hongwanji), Zen (Soto) and Nichiren including many varieties of Shinto worhsip. Lutherans wre established in 1883, Seventh-day Adventists in 1885 the Salvation Army in 1894, Christian Scientists in 1902, Northern Baptists in 1930, Southern Baptists in 1940, Unitarians in 1953, and the Presbyterians in 1959. The Quakers and the first Jewish synagogue was established in 1950. Throughout Hawaiians exhibited tolerance not accorded them in their religious practises.

PRIVATE SECTOR:

It is apparent that a land base is a necessary and important requirement to native Hawaiians judging by the existence of two that service them. These two land bases are the Kamehameha Schools, with about 300,000 acres left in a trust and the Liliuokalani Trust, created by queen Liliuokalani's estate for children which derives its income to service orphan children from leases and rentals of lands.

These two examples demonstrate a land base for natives appear a requirement to preserve the Hawaiian's future and culture. The history of the Kamehameha schools is an interesting one because it demonstrates how an alii (of the intellegencia) Princess Pauahi Bishop declined the throne of Hawaii but felt about her responsibility to her native people. She left her entire estate to the founding of an educational institution to foster "good and industrious boys and girls".

In the 1970's the Kamehameha schools had a student body of 2,500 or 4.5% of the 50,000 native Hawaiians eligible. In the 1980's the Schools have a student body of 2,800 and a part time number of 9,000 students and now maybe servicing about 25% of the eligible native Hawaiians with its present capacity and curriculum. The construction of another and separate Kamehameha Schools, which does a creditable job, would assist the present facility service a greater percentage of the elégible native Hawaiians.

The Liliuokalani Trust for orphaned children was created by the last queen, who was dethroned by non-Hawaiians in 1893. This alii, queen Liliuokalani left her personal extate to fund and maintain the trust to service native childrer who are orphans or indigents. She also left other landed legacies to her native people as well as to all of the citizens of Hawaii. There is a strong possibility that she, as queen, and holding all of the Crown lands in her name could have ultimately declared all of these vast lands to be set aside as common lands for the natives benefit if there had not been the armed intervention of 1893. The armed intervention of 1893 saw non-Hawaiians alienate the Crown lands and illegitimately cede these lands to the U. S. in a quit-claim ceremony in 1897.

It is obvious that the best long term option for natives is a land base. Why this is so, can be seen by other examples. King Lunalilo left about 300,000 acres to establish a home for aged, infirm and indigent, preferrably native people. These lands were converted, it is reported somewhat questionably, into an investment portfolio. The most interesting aspect of this activity is that the Lunalilo estate of 300,000 acres is about equal to the Bishop estate of 300,000 acres when they were initially established. But the difference is today the Bishop estate's lands are valued at $3 billion and the conversion of the Lunalilo estates 300,000 acres into a portfolio is worth only about $1 million. This great disparity of nearly equals at the outset severely limits the service that can be offered to the aged and infirm.

Although it has been frequently suggested that the Bishop estate sell off its lands and put the proceeds into an investment portfolio, this has not been done and fortunately so if the Lunalilo estate example is a result.

Another service that utilizes a land base is the Queen's hospital. First opened in 1860 the hospital was established to care for indigent Hawaiians. Queen Emma left her lands in an estate to maintain the hospital. Today Queen's is Hawaii's largest.

Queen Kapiolani established the Kapiolani maternity hospital to care for Hawaiians also. So these alii left the native Hawaiian legacies as the few that survive but serve all of the residents of Hawaii.

Today the Department of Hawaiian Home Lands (DHHL) is what congress established in 1920 as the Hawaiian Rehabilitation Act. The Act set aside approximately 200,000 acres to rehabilitate native Hawaiians who were obviously in need of housing and who were said at the time to present a public embarrassment wandering the city streets in poverty.

It is generally known that under the Act of 1920, for some sixty years after the acts passage only some 3,000 native Hawaiian applicants had been served and placed on the land. ?
Meanwhile some applicants had waited for twenty or more years to recieve anaward. There have been reports of favoritism in making some awards. Today there are some 7,000 waiting applicants for awards including some for farming and ranching. It can be speculated that at the past rate it could take more than another 180 years to award a parcel of land to all waiting applicants, which appears unreasonable. Meanwhile there are problems with accounting of funds, ex-

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[illegible] orders to take over lands without due process and a perennial shortage of an ample budget to carryout the mandate from congress, not to mention at times the "loss" of parcels of land.

The program has proved difficult to manage to [illegible]. To begin with the land was nearly all second class lands and only 2% of the original lands could be developed for use at nominal costs. There are zoning problems to developing the land that have been described as over restrictive and costly contributing to the lack of awards. This fact suggests that a closer look at this part of the program is necessary. To satisfy the demand and place all of the 7,000 applicants on the land would take an estimated 400 to 500 million dollars under the present format. This appears an impracticality the therefore unobtainable.

It is apparent that the actions in the private sector have been more successful to an extent in serving native Hawaiian beneficiaries than an agency of government service. This condition suggests that the function of such an agency to award lands and homes be more closely governed by those affected or the beneficiaries. Conditions further indicate that the services and assets not be filtered down through another political process to be affected by opposing interests which exists at the present and likely contributes to the problem.

The transfer of the agency (DHHL) to another entity or agency may also accomplish better response to the beneficiaries needs, although the agency itself has shown some improvement in its more recent operations. There are constraints that

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the state government presents that are generally too cumbersome which is reflected by the limited percentage of natives on the lands when there are a minimum of 30,000 who could by blood quantum qualify not to mention other native Hawaiians who could participate by successive criteria.

NOTE: The services of Alu Like Inc., are not included here principally because it is primarily a federally funded organization to assist native Hawaiian Americans.

CRIME AND DELINQUENCY:

How was conduct regulated in old Hawaii? By the Kanawai beginning in 1600 and also the kapu system. There does not seem to be a problem of delinquency in early Hawaii. But there is one aspect for sure, what is not legal today by newer standards could be acceptable in old Hawaii under a different set of standards and therein may lie much of the difficulty.

That alienation exists today for different races in varying degrees goes without saying. Yet early recognition of such is desirable because if children (Hawaiian) do not do well in pre-school tests it can be expected that they may not do well in elementary school likewise and are prime targets of alienation.

In March of 1977 the Office of Civil Rights based in San Francisco examined disciplinary incidents in the Island public schools. Strangely it was found that of each ethnic group that the full blooded Hawaiian had the lowest discipline incident rate of all. This attests to the absence of delinquency problems in early Hawaii which can be attributed to their culture and basic conduct later to be affected by western influences. The part-Hawaiian in a separate group had an expulsion-suspension rate equal to those students of Chinese or Filipino ancestry. This seems to indicate that native Hawaiian children at this level do not have an acute disciplinary problem.

A later study, "Crime in Hawaii" by the Hawaii Institute for Management and Analysis in Government conducted in September of 1980 found that early prevention may identify

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and help pre-delinquent youngsters.

This later study found as expected that part-Hawaiian students tend to be over-represented in the alienated group due toseveral apparent causes such as broken homes and further that these students do poorly in school.

These studies bring us to the present and the apparent high representation of Hawaiians in penal institutions and why are they there?

As early as 1930 Thorsten Sellin, one of the nations leading criminologist, questioned whether the real crime rate for blacks for instance, as a minority, was higher than for whites. Blacks appeared to be arrested, convicted and committed to penal institutions more frequently than others. Sellin maintained that social factors distorted the rates.

On the topic "Crime and Justice in America", professor of sociology Alphonso Pinkney found in the FBI's Uniform Crime Reports of 1975 that blacks are arrested between three to four times more frequently than whites. But the most interesting aspect of this report says something about society , when native Americans are arrested at the rate of three times that of blacks and 10 times that of whites. Such rates support the charge of oppression by the use of racism, and minority groups must conform to those very laws and social practises designed to maintain their subjugation. For native Hawaiians subjugation really began in 1893 with the overthrow of their legitimate government.

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Further statistics of this report point out that arrest rates among racial minorities do not mean that these groups have inherently stronger criminal tendencies because crime is a function of social factors, not race. The vast majority of members of racial minorities are law-abiding citizens. The law has not only institutionalized but deprived native Americans of their land and assets and even their lives.

One of the major forms of racial oppression is economic discrimination manifest in unemployment. Unemployment is one form of oppression contributing to arrest rates of people of color. The high arrest rates reflect the fact that legitimate means to achieve societal goals are often blocked by discrimination. Crime may therefore be seen by some as the only means available for achieving the symbols of success.

It was additionally found that people of color are generally forced to live in areas characterized by poverty, poor housing and limited outlets for recreation. These conditions give rise to criminality and other forms of non-conforming behavior.

There is a connection between race and crime that is caused by social factors. To support this the President's Commission on Law Enforcement and Administration of Justice in 1967 concluded: "The commission is of the view that if conditions of equal opportunity prevailed, the large differences now found between the colored and white arrests rates would disappear". This conclusion and other findings substantiate that native Hawaiians must create their own opportunities to avoid any discrimination that would be manifested in employment.

LAWS:

Hawaiian society can be traced back as a lawful and organized people to the time of Kualii, ruler of Oahu in 1600. In 1600 he decreed a Kanawai (law) to say, "Old men and women could sleep along the highways in safety, that farmers and fishermen mus welcome strangers and feed the hungry in the name of the Kanawai. Interestingly conduct relative to the Kanawai law persists until the present; as Hawaiians will still welcome strangers in many ways to even share their limited blessings, such as whatever food they have with others.

In the late 1700's Kamehameha I was to decree the Law of the Splintered Paddle, MAMALAHOA. Which said, "O my People, Honor thy God, Respect alike (the rights of) men great and humble, See to it that our aged, our women, and our children lay down to sleep by the roadside, without fear or harm.

By 1839 Kamehameha III had granted an Ammendment of Rights to the Hawaiian people that could be equated to a Bill of Rights. There followed in 1840 the first constitution of Hawaii to formally record the practises and customs long enjoyed in the kingdom. Most importantly the constitution for the first time gave the common people actual political power. Further under this constitution the common (tenant) peoples vested interest was identified and in the division of the Mahele they were recognized as recieving one third of all of the lands of the kingdom. This is a matter of record which infers that such a gift still exists along with other recorded gifts of the same period. These previous actions indicate that the ceded lands, in 1897 are the very same common lands divided out in the land division of the Mahele. Which also means the ceded lands are the common property of the descendents of the tenants living today.

Several arguments can be raised relative to the land practises of Hawaii. Unfortunately the laws were unique to Hawaii and need not fit into practises elsewhere. This condition has also led to misunderstanding Hawaii land practises. The Draft Report infers that the Kuleana Act terminated aboriginal title. Yet it cannot be denied that there was a provision to give to commoners a grant of land of indeterminate size as demonstrated by the Kuleanas claimed and recorded. It follows that all commoners were given the same right without exception and they simply have not yet acted upon their individual claims. Which is now resulting in a holding of lands in common by the descendents. In fact the act of granting the tenants an undivided interest in all of the divisions of crown, government and chiefs lands means in effect the descendents are the owners as survivors of any of these lands identifiable and not conveyed by any prior act of a sale or deed.

A misunderstanding of the Kuleana Act in the Draft Report is contained on page 171, 3rd paragraph, ref.52. Here the Draft Report cites a termination date for Kuleana claims. In actuality the Act operated long beyond the date cited and on into the Territorial era. Even up to 1909 when the commutation tax could be paid as a lien due the government the terms of the act were in practise. Even after the Act had supposedly expired Kuleana grants were still made and in effect there was not a definite termination. Not only did the Acts terms extend until 1899 but beyond that as a right called the First Right of Preference to Purchase. This practice was a continuation of the Kuleana Act for those who lived on the land and could exercise the right of purchase as in the Kuleana Act.

An interesting aspect arises when it is considered that the commoners who failed to claim and divide out a parcel of land have an interest with the government in the lands that were ceded. This is because if only one third of the raw land was to be deeded back as a commutation tax but in effect the government retains the whole parcel then the tenant has in effect overpaid his tax by two thirds and now can have an equity interest in the subject land with his government. Where can these kinds of lands be found? In the ceded lands.

In the Draft Report the restrictive terms "actively cultivated"are used to advance an argument. Yet the Kuleana Act had an important intent, to place people on the land to actively cultivate it as a personal benefit and at the same time to eliminate the commoners labor tax requirement. David Malo, historian, in 1846 was to say at the Kuleana Acts creation, "I believe it best that at this time, the people should own lands as they do in foreign lands". The elimination of the labor tax also required the chiefs and King to hire labor instead of using commoners for labor without compensation.

What has been forgotten is that those lands conveyed particularly by chiefs and some by the crown had an unqualified interest of the tenants which they may still claim from the remaining pool. Based on succession and genealogy relative to Hawaiians of the period. These claims remain in the ceded lands because when the chiefs paid their commutation tax they had in effect paid the commoners interest also by the conversion but the native has not recieved his portion as yet. He might choose to pursue the interest in the sale completed or in the resulting ceded lands. It is certain that by remaining on the land the native has by the terms of the adverse possession law in an open and notorious fashion earned the right to the property without the formality of the commutation tax being repeated.

After the Mahele division of 1845 came the revised constitutions of 1852, 1864 and 1887. In these constitutions a change in the commoners interest is not spelled out although lands were withdrawn in 1876, 1884, 1887 and even up to 1892 from the Crown lands to be used for homesteading. These lands were in the name of the queen, Liliuokalani who may have eventually designated them all for native subjects had not the U.S. aided overthrow intervened in 1893. It can be assured the native interest is still in force and can be confirmed by the open and notorious occupancy of natives on lands they lived on but had not paid the commutation tax therefor.

The constitution of 1887 was forced upon the King and served to reduce his power and that of the voting native

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hawaiian and to which Hawaiians would ever after object. The proposed constitution of 1893 was to restore those lost powers and contained only ten changes to restore lawful practices.

After the overthrow came the constitution of 1894 which contained a provsion to encourage annexation, apparently against the wishes of the majority of Hawaii residents. There followed the Dole Land Act of 1895 to alienate native Crown lands and permit the wholesale acquisition of lands by the governing oligarchy. By the time 1898 had arrived much land had been questionably grabbed up and the largest redistribution was the ceding of Hawaii's 1.7 million acres of ancestral land to the U.S. as an incentive to complete annexation. It is clear that from the enforced constitution of 1887 to the ceding of Hawaii, its lands, assets, treasury and sovereignty that a period of unlawfulness existed and was perpetuated by certain individuals who had arrived as immigrants. It is also clear that those individuals who gained those assets and powers so unilaterally sought to retain such on a continuing basis for personal manipulation to provide for large embarrassments to the U.S. and its constitution.

Due to the lackof a mandate, the transfer of Hawaii and it lands, treasury and sovereignty the ceders of such carried out a ceremony in 1897 to accomplish such trasfer as in a quit claim. The lands and sovereignty of Hawaii were quit claimed as the ceders could not guaranttee or warrant title to the ancestral lands offered in the an-

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nexation to encourage the sale of Hawaii by an illegitimate government.

It can be assured because these conditons existed the ceded lands of Hawaii were not considered to be public lands as public lands are considered in the U.S. rather that congress would legislate special laws for such lands at some future time. In effect a trust was created and has existed for some 89 years of this land and needs to be examined for continuation or appropriateness.

In 1900 the Organic Act was implemented when Hawaii became a U.S. territory. The Organic Act specifically reenacts the great body of pre-existing Hawaiian statute law, which was based upon the several Hawaiian Constitutions and organic laws. These laws were so remarkably well designed that they have endured as amended until the present and influence life in Hawaii consistently as can be presently seen.

The concern is the Draft Report attempts to reinterpet the intent of the native Hawaiian land division and awards and appears to be incorrect. There is only one consideration and that is they (commoners) were promised a one third interest in all of Hawaii's lands and which the Kuleana Act attempted to do but did not accomplish. Not accomplishing the division has not changed the declared intent and such lands are still identifiable and remain to be recognized.

As an example, the Land Commission of 1845 identified the common tenants share as one third the Kingdom, the chiefs one third and the King one third. Then came a complicated

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further division giving the tenant an undivided interest in all three divisions of King (crown), government and chiefs. Under the Kuleana Act which followed right after the Land Commissions establishment a common tenant could record his kuleana claim and pay the one third commutation tax or reversion of one third the raw value of the total property and then receive a royal patent. But it was not mandatory to record a valid kuleana claim and so it frequently was not done and the commutation tax not paid. The tenant further could not be dispossessed of his homesite and he remained on it up until past annexation. There was no termination as might be implied in the Draft Report. As stated earlier it was in 1909 that a system of payment was developed to accomplish payment of the commutation tax and was described as a lien due the government for such kuleanas. In any case the longevity of the existence of practices regarding the Kuleana Act was so demonstrated and further the title of such kuleanas are recognized to the present. It follows that the common tenants interest remains to be divided out somehow from the ceded lands. There was and is no other ownership. Which brings us to the present and relevant issues.

In early times Hawaiians exercised certain rules of conduct regarding accesses and water usage. An incident relative to this conduct occurrred in Kau on the big island. Since 1955 the purchaser of property in Kau was denying access to the ocean by traditional paths and increased denial to a bay there in the mid 1970's. Finally in 1976 the purchaser of the Kau lands had people arrested for ex-

ercising the use of traditional accesses to the ocean. The judge in the case determined that public access using one path, "The Ancient Walking Trail", and other such trails running from the mountain to the sea had been in continuous use since ancient times and could not be arbitrarily denied. Other questions of access were settled out of court frequently. The island of Molokai had questions of access to the western end of it for traditional uses that were being denied and had been restored. In the north Kona district on the big island of Hawaii, at a site called Mauna Lani the ancient walking trails were preserved and restored for public use and enjoyment.

The water practises of early Hawaiians have also been observed and preserved for continuation. The Hawaii Supreme Court has ruled that private landowners are entitled under ancient Hawaiian law to only limited use of the waters flowing through their properties and the waters use in effect must be shared by traditional users.

More recently the right to gather firewood, ti leaves, bamboo, kukui nuts and medicinal herbs for certain native Hawaiian practises was endorsed as a practise of the ancient ahupuaa as cited in a law of 1851 which limits the items and uses therein.

The question is, what does this all mean today? What is the relevancy? To an extent it should be recognized, people of Hawaii today are living under ancient practices regarding land usage. Although perhaps not fully realized the ancient laws are the basis of many present day laws

evolved or amended and concieved on a foundation of the old Hawaiian culture. While it is frequently said that Hawaiian culture is dead and gone, that culture, formally recorded beginning with the constitution of 1840 persists until the present day. Buffeted and assailed by newer arrivals the culture remains in the land practises as well as in many other areas and requires observance as a natural and worthy philosophy to follow.

EDUCATION:

In the area of education much more can be accomplished. Formal education began with Kamehameha III in 1840 with a compulsory public school system. In 1845 the schools were on a tax supported basis and by 1854 when English became the primary language in the public schools native Hawaiians had a high rate of literacy in either English or Hawaiian.

Education was not supported by the controllers of Hawaii's wealth up through the period of the annexation. Education remained without support for twenty years after annexation nor was it encouraged. Rather was the perpetuation of an uneducated, docile, plantation class.

Now many years after the auspicious start of 1840 a reexamination of native Hawaiian progress is necessary. How do they fare today on an average in the community? In early 1980 results of native Hawaiian school childrens performances were examined. It was found that they do not score well and are near the bottom of standardized reading tests. Further that an apparent academic loss was experienced by Hawaiian students as they progressed through school to the upper grades. A question is why this pattern?

A Kamehameha Schools program, called Kamehameha Early Education Program (KEEP) has yielded some answers. Hawaiian youngsters relate more to their peers than to adults starting at an early age between 3 and 4 years. Thus they may arrive at school at age 5 without the skills of other children ~~as they pay more attention to each~~ other, talk to each other and not necessarily pay attention to an adult

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teacher. Partly because Hawaiian culture is basically an oral tradition these children come to school lacking an important awareness about reading: that words have meaning, that a [illegible] reading text is a tool of life. They may not also have many books around their house compared to other households and are not attuned to reading to understand that words in their picture books represent a story. This condition has a telling effect on the skills of Hawaiian children and their performance on national standardized reading tests.

It is a trait of Hawaiian children to maintain close, supportive affiliation and are major caretakers of their siblings which may be a reflection of the extended Ohana and family practises of native Hawaiians and Polynesians. "These traits make Hawaiian children very different from Japanese, Chinese or Caucasian children and seems to be a definite characteristic of Polynesian children", is the view of Dr. Roland Tharp as principal investigator of the KEEP project.

In this process what maybe apparent is that in the U.S. there is one of the better public educational systems available. The funding for the system is reasonably adequate. Yet Polynesian children do not fare as well on the general average. This then suggests that a special program is desirable which would require other funds. Whether all of society should be exposed to or have to support such a special program is not clear. If it is a special program then funds for such a program would best be generated from other sources than the present. In this case the Kamehameha Schools as a private [illegible] foundation uses such revenues for its programs.

At the same time Hawaiian Studies can be found in 886 Department of Education (DOE) classrooms. According to Robert Smakenberg, educational specialist, this program started three years ago and at its inception, "it was hard to give it away". In this endeavor the goal is to teach Hawaiian culture, values, concepts, practices, history and language, which maybe of value to people trying to live happy, productive lives in harmony with our island enviorment.

The program is in 82 elementary schools serving 22,963 students by some 100 kupuna (Hawaiian elders). But in order to teach all children who may be interested the program must be expanded to all 171 elementary schools and would require ~~a total~~ additional budget of $1.2 million ~~and~~ to more than double the present number of schools involved.

It is clear that there are differences in the Hawaii melting pot and the philosophy of a Polynesian lifestyle still exists. That despite the outward loss of language and a smothering of the culture some conduct still survives in the home relative to old family or ohana practices of Polynesians. It would seem better to enhance these practices than to insist on conforming to other standards. One answer lies in expanding such institutions as KEEP to help these children who seem to be left out of the educational system and to fund by special sources ~~and~~ the programs to enhance values that are relevent. What is done best, is usually that, by oneself for oneself.

JOBS:

Prior to 1865 all labor in Hawaii was performed by native Hawaiians and in which year saw the arrival of 522 Chinese contract laborers paid $4 per month. Hawaiians had declined in number to 70,000 from Captain Cook's 400,000 in 1779 when he first arrived. By 1870 native Hawaiians dwindled to 57,000 people although sugar production climbed from 2 to 20 million pounds annually. By 1890 native Hawaiians had declined to less than 40,000 in number however, more labor was needed, so the Royal Hawaiian Agricultural Society was organized to import some 400,000 men, women and children by 1930. This import equalled the orginal population of early Hawaii at Captain Cook's arrival.

In 1939 there were 37,500 sugar workers on the plantations and sugar was the second largest contributor to the economy behind government spending. In 1946 the last contingent of Filipino labor arrived that was alleged to be used for strike breaking. In 1946 the sugar industry was orgainzed by the International Longshoremens and Warehousemens Union (ILWU) to carryout a strike and win concessions from the industry. In 1946 the industry is [illegible] producing more than 1 million tons of sugar annually.

Tourism in 1967 was overtaking sugar as the leading economic contributor and ten years later in 1977 there are only 7,500 sugar workers on the plantations although the production is still over 1 million tons annually. Conversely in the mid-1970's Congress allows the Sugar Act to expire after 40 years in place, to support by subsidy or quota and

import duties the sugar industry.

From a position of dominance, sugar production is reduced in importance althoughthe industry still uses most of the good agricultural lands and water in Hawaii it only employs in the 1980's between ~~10,000~~ and 7,500 people in a total population of 1 million. This condition contributes to the fragility of the economy by encouraging massive imports, in the range of 80 to 90% of the necessary produce food items and what lands are available are of poorer quality, or residual, ~~and~~ do not ~~the~~ add to self sufficiency. It is this contributing factor that has denied the native Hawaiian his traditional food items to place them out of reach, even if available.

In 1982 national unempolyment reached 10% and in Hawaii unemployment is less than 6%. But the reasons for this apparent favorable disparity may not be obvious. Low unemployment rates in Hawaii do not necessarily mean high job opportunities are available in Hawaii. Hawaii throughout its history has a record of surplus labor beginning with the first import of labor to keep [illegible] wages low. From the first import of labor in 1865 a surplus of labor has influenced the labor market adversely. While employment appears high because the unemployment rate is low at 6%, the fact is that a surplus of labor is evidenced by higher wages on the mainland U.S. than in Hawaii in nearly every instance. Indications are that a given number of people are being fitted into the jobs available andnot that there is an excellent opportunity for work as can be imagined. The labor market in Hawaii can be described as captive, as in the past.

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47

The conditions that perpetuate supplus labor are immigration principally, and native Hawaiians are probably the most affected by this continuation. So while tourism succeeds sugar and now employs many, wages are very low even if tourism contributes $3 billion to the economy and is the leading financial generator.

In April 1982 the state Labor Director cautioned, "there are jobs, but many are hard to fill because of low wages or other poor conditions", followed by the comment, "while we're happy that unemployment here is not as high as other states, it doesnt neccessarily mean there are jobs galor".

The existence of a poor job outlook means something should be planned by native Hawaiians for themselves to improve their outlook. This can be accomplished by asserting and inovating for new employment opportunities. A special land base can attract new and clean business ventures that do not detract or diminish from the present employment picture, rather can enchance the total picture with new industry and perhaps only native Hawaiians can accomplish this with a land base in their own home.

Closer to home the cry is, return to the land. But no one wants to work the land is the claim. So neither can be accomplished. Why? Mostly because the soil is depleted. Without the import of chemical fertilizers the delicate balance necessary of soil, nutrients, sunlite and water the growing of crops commercially would not be possible. Needless to mention the problem of suitable available land, that is water at avordable rates and prevailing or reasonable ~~ag~~ land rates.

48

Agricultural chemicals have already entered the Hawaii food chain to contaminate food and necessitate their recall. As more harmful chemicals ~~have also~~ are imported for agricultural use they may yet seep into the limited and precious water table, ~~and~~ at least it is recognized. The use of ethylene dibromide (EDB) a deadly pesticide and endosulfan are among the many used in Hawaii not ordinarily used elsewhere. ~~It is~~ not generally talked about, because it is too unsettling to think about.

But what can be done? Cant stop agriculture, it is too importnt to the economy. Perhaps. Or because its been around so long we wont change things. The paradox Hawaii experiences is duplicated elsewhere. In the farmlands of the mid-western U.S. is what ~~are~~ is termed the breadbasket of the world. Here one man can produce enough to feed many and much of this huge surplus ~~is~~ of produce will be exported to the world. But there is a price to pay. The topsoil used to grow the produce is literally exported too, although most of the replentishment can be achieved by chemical fertilizers, the land is literally being forced to yield. Yet there is a law of diminshing returns, and predictions are that due to these conditons there could be a return to the swirling ~~1930~~ dust bowl ~~years~~. To make matters worse chemicals to make fertilizer produced from oil are growing more expensive in Hawaii to reduce profitablity and use. Obviously Hawaii does not have vast continental lands so that one can migrate to the next region and continue to farm. There are few options.

49

What can be done? The U.S. Soil Conservation Service (SCS) has been buying up agricultural land in the U.S. to land bank such lands. So many millions of acres of the best farm lands are lost each year to development that there is a concern to keep these lands in agricultural use. Hawaii frequently has its limited agricultural lands rezoned by political bodies for urban use and there is a concern for these land in Hawaii also. A rational approach is that many of these lands should lie fallow in conservation and replentish for some future use and those living then.

50

TOURISM:

Tourism is big business for Hawaii and along with military spending may form the basis or larger part of the states economy.

Before the end of December 1982 the four millionth tourist arrived in Hawaii for the year to fanfare and welcoming ceremonies. Tourism in 1981 in Hawaii generated over 1 billion dollars in revenures. It has been highly touted as the savior of Hawaii's economy by the administration for decades. The media will extoll the virtues of the taxes tourism contributes to the economy. So the question is, what did people do before tourism and how did they manage to survive? One answer is in the following.

Mostly it is important to remember that many if not the majority of native Hawaiians enjoy a more simple lifestyle and therefore are considered at the poverty level in Hawaii society. This is the lifestyle they have selected to enjoy. Rather than the accumulation of material things native Hawaiians are more interested in the justice of sharing. But native Hawaiians have been obliged to conform to other standards and must fend for themselves in the system.

A report of consumer attitudes in 1970 of vacationaing in Hawaii showed that natural scenery and good beaches ranked high with prospective first-time and repeat visitors. Newspaper editorials promote the virtues of tourism, to bolster the lagging industry on the big island of Hawaii for the past two years. In this connection a slogan for the big island has been adopted, "we can still have what we want, and still have what the tourists want, we can share and stay ourselves".

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A problem is the big island has many attractions but few good beaches to attract visitors.

Conversely a later study in 1972 showed that encouraging more increases in tourism leads to further development. In the process, eventually the tourist becomes "turned off" because the resort destination has lost its naturalness. Thus it can be visualised that slowly but inexorably there is a move toward the potential of the resorts own demise. Destination areas carry with them the potential seeds of their own destruction as they allow themselves to become more commercialized and lose their qualities which originally attracted tourists. In this regard the island of Oahu is rated slightly past its maximum appeal point and the neighborhood islands are just approaching thiers. By comparison, Coney Island has long passed it and Miami Beach is almos at the end of the road.

But tourism is supported by the development sector who are pleased by the new construction the industry requires. Developers are substantial contributors to political campaigns and there is a strong effort to keep things rolling along as they are, the picture looks good, but is it? Is this a long term, or just a quick turnover to leave behind a disoriented society? It would appear the answer to the question based on the rapid growth of tourism from 1941 when 31,846 tourist came to Hawaii to 1982 when 4 million tourist came shows a rapid growth in four decades. No planning was involved in this scenario and this demonstrates as short term consideration by the congestion and poor layout.

Surfing was the sport of Hawaiian Kings. Today there are about 100,000 surfers or ten percent of the population including surfing tourists. A decade ago surf competitors came for the surfing season but today more and more are staying. and settling. There are symbolically more surfers than waves, behavior becomes "animal like" because of pressures and crowds, the sheer force of numbers competing for space. It becomes 'us' versus 'them' and we know who 'us' is because we know who has lived here longer and heated words lead to physical violence. So while the tourist comes basically to Hawaii's beaches, the first area that is being overcrowded are the beaches and access leading to inevitable confrontations. This fact suggests the land facilities are also approaching that state.

Why is this happening? One answer can be selfishness. Selfishness leads to the use and abuse of resources for immediate gain rather than preserving them and the natural beauty that surrounds them for future generations. The point is, those unwilling to share with their contemporaries can scarcely be expected to share with any descendents. There is a behavior spectrum stretching from that of the ego-individual with a tendency of the affluent to be selfish. At the other end can be found the native Hawaiian in the poverty [illegible] concerned with justice and compassionate sharing. The expression, "the tone of America in the Depression years was set by the truly [illegible]; today it is set by the truly greedy" has a relavent application for native Hawaiians.

Tourism also brings in a lot of new residents because a certain percentage of them are going to return here to live. These new people need jobs; so the answer has been to build more hotels and apartments. New consturction provides a limited number of jobs but could provide an unlimited number of new residents over a long period of time. In effect it can be found that tourism is actually creating unemployment, not curing it as we would be led to believe. The question is what do unemployed people do in paradise to experience paradise? Do they turn to crime to realize their expectations?

A real concern is what might happen if it becomes too expensive to fly to Hawaii with rising energy costs? Or that Hawaii with the highest cost of living becomes unattractive, forcing people to move elsewhere who now have to use food stamps in order to feed themselves. There was a large exodus of residents out of Hawaii during World War II for various reasons which indicates they were not interested in the true benefit or value of the islands. Do new residents who come really care and have their roots in Hawaii? Or is Hawaii only good for its beaches and weather, all else is up for exploitation and profit. Many who move to Hawaii do so physically but not always spiritually.

In 1982 we find tourism is on top with more than four million tourists in a $3 billion economy but we also have 1 million residents in Hawaii. Tourism affects population if only because tourists must be serviced. The paradox is that there is at the same time a surplus of labor contrary to unemployment statistics. While it would appear that Hawaii

consistently has one of the lower unemployment rates in the nation, this is accomplished by the device of including the "volunteer" military personnel stationed in Hawaii as being a part of the work force and there can be a misconception of the true unemployment picture.

While 1982 has been the best year in tourism yet it is certain that this condition cannot go on forever. The coming year does not appear good for Hawaii's largest industry and it is attributed to the state of the economy, general malaise nationallly and even the recent hurricane Iwa.

A former University of Pennsylvania and now University of Hawaii professor has recently concluded a massive research project to determine the "quality of life" worldwide to find that things are not so rosy. In searching he was not looking at tourisms hotels, restuarants or days of sunshine nor in economic development. Rather he was looking at levels of social caring as refected in adult literacy, infant mortality, minority treatment, and health and welfare. He examined political participation and stability, language differences and influence of the military and even natural disasters such as drought and hurricanes. The findings showed the nation does not rate high on the average. For native Hawaiians they suffer an even less enjoyment of social caring in their homeland. This suggests Hawaiians require more self sufficiency and self determination to direct their own futures as desired.

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FRESH WATER & LIFE:

As frequently pointed out there are water problems. For instance in Waimanalo on Oahu there are some 6,000 acres of land to be irrigated and about 10% or 600 acres was in irrigation in January of 1981 for about 90 farmers and nurserymen. To carryout the entire irrigation of 6,000 acres may take between $2.3 to $16.4 million and several years to accomplish. The problems cited at Waimanalo are not unique and include limited water being available, service being available only three days a week, dirty water, high operating costs and high water losses in ditches and reservoirs because of a system in operation for the last 100 years. In this kind of a problem the farm needs must compete against the develoment needs and it is obvious that development needs use lobbying efforts and campaign contributions to promote their cause.

An example of this competing situation is one that has surfaced in Waihee on Oahu. The Waihee farmers went to court after the Honolulu Board of Water Supply began operating wells in 1974 and pumping water from a dike system feeding Waihee Stream to transport elsewhere. The farmers claimed that the lessened water flow caused their taro to rot in the patches as a result of the diversion and reduction of water by the Water Boards pumping. It this connection the HawaiiSupreme court ruled that private landowners are entitled under ancient Hawaiian law to only limited use of the waters flowing through their properties.

The court further indicated that water cannot be transported to lands outside the valley or watershed where it flows.

At issue is the traditional use of water and whether water rights can be sold and by whom. In this case the purchase of water rights is the key becouse it implies that the seller by some means has acquired ownership to convey to the buyer, the state in this case the ownership. But the high court has already ruled that water rights cannot be sold and a historic 1973 dicision in the McBryde case supports the position that the rights to use the streams water could not be sold. This high court ruling appears reasonable because the native Hawaiian could be the only one to own ancient water rights that have not been sold in the context of sharing and traditional use.

The pressure of water availabilty for development is constant. As an example, in December of 1982 more land was reconed from preservation to residential in Kailua Oahu requiring a 300,000 gallon water storage tank like all newer subdivisions. The rezoning is likely to continue if more applications to be filed are approved for the open spaces and former agricultural lands of the Windward area.

New construction is often dependent upon water availability which further emphasizes that the resource must be managed and protected more closely. Between the last 10 to 15 years there was not much concern about water and a failure to recognize the resource was finite existed.

The tragedy of much of this is evident in the rationale to build the H-3 highway. It will be 90% financed by the federal government, which is us, for special interests although labelled a defense highway. The route could very well open up and justify more development on the windward side of the island of Oahu. Some residents there are just "hanging in there". Besides this, an enviormental impact statement on the project of H-3 includes testimony that drilling tunnels through the Haiku valley might disrupt the Halawa Well furnishing 25% of the city of Honolulu's water. There are other arguments on the subject but each time water drilling has been carried out there is a reduction in the normal flow.

In recent years Honolulu's fresh water supply has reached very low levels, threatening an irreversible situation of mixing brackish and pure water. The possibility continues to be a dire possibility. The reduction of the fresh water lens or levels has created other problems in areas where life is dependent upon fresh water to survive. Much of the sealife at the shorelines once fed by seepage of fresh water has disappeared. Seaweed (limu) requires fresh water to grow, and diverting fresh water from natural springs destroys an edible food once enjoyed by Hawaiians in quantity. This contention is supported by the decline and disappearance of "limu" shortly after the fresh water level dropped to very low levels. Whether such seafood can be brought back is not clearly known but the further decline of other dependent sealife can be avoided by better water management to preserve such fresh water dependent species. Related to the disappearance of "limu" was the disappearance of fish dependent upon it as food and the inshore fish that only consumed "limu" but were not carnivorous also disappeared. In these instances two traditional foods of limu and fish were reduced and sometimes eliminated altogether for native Hawaiians.

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VALIDITY OF REPARATIONS:

When U.S. Army General Schofield in around 1872 first arrived in Hawaii, ostensibly on a sight seeing trip. he was actually under confidential orders to assess the importance of Pearl Harbor as a U.S. military outpost in the Pacific. His arrival set in motion a series of events. Thereafter followed the conclusion of the first Reicprocity Treaty in 1875 permitting exclusive use of Pearl Harbor as a U.S. coaling station in exchange for which Hawaii could export into the U.S. principally sugar duty free. In 1887 the Reciprocity Treaty was renewed for seven years and would have normally expired in 1894 or about a year after the overthorw of 1893 involving the use of marines form the USS Boston. The involvment of the marines does appear to have some connection with the Reciprocity Treaty expiration and the refusal of Kamehameha V to sell a small island to the U.S. for use as a coaling station.

After annexation of Hawaii in 1898 the entrance to Pearl Harobr was dredged and widened for large ships to enter. By 1941 Pearl Harbor was a huge naval base and the home of the Pacific Fleet comprised of more than 100 naval vessels including aircraft carriers and battleships. Hawaii could be said to "riding point" as the first contact in case of hostile actions or encounters. True to form, fortified Pearl Harbor was attacked on December 7, 1941 in probably thegreatest single naval defeat in U.S. history. The rest of the nation was spared any similar damage as Hawaii took the burnt of the attack

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and carried the burden through the years of the Pacific conflict.

Hawaii has continually served as the final training site of other Pacific campaigns in the years following World War II. A large part of the weapons of war have been funneled through Hawaii over the years. There have been no protests of note. Aside from atomic tests at Almagordo, New Mexico, the state experiencing the closest atmoshperic testing to it has been Hawaii and its citizens, but there have been no protests of note.

A report in October 1982 indicates that at Johnston Island 825 miles southwest of Hawaii 12 atmospheric blasts were conducted in 1961-62. At Christms Island 1300 miles south of Hawaii 24 atmospheric tests were conducted during the same period. In May of 1962 a submarine launched an atomospheric warhead 1,000 miles south of Hawaii. During the same period 2,500 miles west of Hawaii at Bikini atoll 23 atmospherice blasts were conducted and 2,700 miles west of Hawaii at Enewetak 43 blasts and one open ocean blast was conducted. There have been at Mururoa 2,800 miles south of Hawaii some 41 blasts and still more are expected. In all 144 atmospheric blasts have been executed. Many of these blasts were conducted by the U.S. and which were terminated in 1962 by a moratorium. There were no protests of note in Hawaii, yet there could have been for much of the weaponry will pass through Hawaii enroute to the testing site. At Mururoa there is bitter dissent over "la bombe" and in the Marshall Islands at Enewetak there is great unhappiness.

At the same time it can be found that for the NATO allied command forces in Europe, there are some 6,000 nuclear warheads in their arsenal to equip these forces. Meanwhile between one third to one half that number are alleged to be stored near Pearl Harbor. Again, as in before, in 1941, Hawaii is a fortified target area. Even the installation of the MX missle site or anything of the sort will arouse great amounts of protests in any other state fearing to become a target area. But in Hawaii there are no protests of note althought there are cases of protest principally by non-Hawaiians.

Simultaneously there have been for many years test firings of vehicles over Hawaii. More recently the Air Force plans to test the MX missile in early 1983 on a secret date from Vandenberg Air Base to fly over Hawaii again and land in the Marshalls at the Kawajalion site.

One result of General Schofield's visit in 1872 ended in the drafting of the Reciprocity Treaty of 1875 for the exclusive use of Pearl Harbor. U. S. Marines aided in the overthrow that ended in the ceding of Hawaii including Pearl Harbor in the annexation. This was accomplished without the consent ~~of native Hawaiians~~ nor with compensation of any kind in the ~~[illegible]~~ natuslization of native Hawaiians.

These activities confirm that only in Hawaii can free military space or bases be found belonging to Native Hawaiians without any fees or costs of any kind. In these activities the U. S. retained some 400,000 acres of land for military installations and among the first tracts were the sites of Schofield Barracks and Fort Shafter. Most of these sites

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are on Oahu and include the Makua Training area, Wainae Kai, Lualualei radio station, Mauna Kapu radio station, Hickam Petroleum, Kunia, Wheeler Air Base, ~~[illegible]~~, East Range, National Cemetary, Bellows Air Station, Fort DeRussy, Fort Ruger, Fort Armstrong, Haiku Radio, and portions of Kaneohe Air Station. There are limits set on the amount of land that can be set aside for national defense in any given region and the concern is whether this limit is exceeded in Hawaii based on the method of acquiring the lands in the first place and the fact that there is no accountablity to Native Hawaiians.

Although native Hawaiians have not strongly protested as have other Pacific Islanders or as in the example of the Phillipines, about Clark Base, which recieves some $500 million annually. There is the Panamainians, who recieve a rental fee, as do many others, as it customary to compensate the owner of property for its use.

This brings up the issue of surplus property which the U. S. government from time to time has tried to sell and it appears that the native Hawaiians should be considered for their interest they have in the ceded lands. Fort DeRussy has been considered as surplus and the government would like to sell it for $221 million. This appears to be an insensitive move.

On the other hand the federal government diligently seeks to collect rent from the state on the former lands of the kingdom and territory of Hawaii. It appears that the federal government bills the state for rent of space in a report of August 1980 while conversely has conveyed to it state property, by quit claim, and avoids paying rent.

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The solution seems to be that the federal government should have to pay rent like anyone else including to native Havaiians for the use of their common property.

But the best reason to pay rent to Hawaiians is from Dr. Helen Caldicott, a Boston Pediatrician and president of the National Physicians for Social Responsibility who said on October 19, 1982, "there are some 3,000 hydrogen bombs stored on your island, it's inapppropriate to feel really happy living here".

To confirm this statement of concern the ultimate folly of limited atomic warfare is evident to all except the proponent. Oahu island is indefensible and any evacuation plans are insane for where could anyone go to escape. While civil defense plans are outlined for the mainland U.S. at least four days warning is necessary to evacuate large numbers. It would be a phenominal undertaking to care for a large population with out supplies and the cost would likewise be prohibitive. To compound this, a statement by Marilyn Braun, director of the Greensboro-Guilford County Emergency Management Assistance Agency said, "for 20 years funds have been misdirected and deceptive information has been decinimated" with regard to evacuation plans. Such plans assume a week's warning could move about two thirds the U.S. population in "high risk" areas. Interestingly Hawaii is one of the listed "high-risk" areas. But where can nearly 1,000,000 people be evacuated to in a relatively short time. A single 20 ton megaton blast over Pearl Harbor indicates only a handful of people anywhere on Oahu at the time could survive, the rest would be maimed and incapacitated, reports the New England Journal of Medicine in Novemeber of 1981. The past history of the attack on Pearl Harbor as a fortified region is well to remember.

FORMING THE UNION & TODAY:

Based on a National Archives Publication No. 70-13, Library of Congress Catalog card No. 72-607019, on the same day in June 1776 a Continental Congress committee drafted a declaration of independence another prepared a plan of treaties and the groundwork for the "confederacy", the "United States of America" was formed. The United States could enter into treaties, coin money, and regulate Indian Affairs. At the same time some states were claiming lands as far west as the MississipPI River to cause Congress to pass a very important resolution to reject a colonial system for lands to be acquired by the Unites States. By these origins the question in Hawaii is, was the annexation of 1898 and events prior to that time not indeed contrary to this adopted principle of rejecting colonialism?

Relative to the U.S. regulating Indians, the issue of Indian sovereignty was advanced in 1977 in a publication, by the Insitute for the Development of Indian Law, in Washington, D. C. Based on law cases determined in the past as precedents, it was found that Indians possessed certain inherent rights over domestic relations, powers to tax, powers of extradition and the power to make treaties. Prior, in 1871 an attempt was made to foreclose the practise of Indian treaty making with the passage of an act to accomplish this, although the U. S. continued to deal with Indian tribes as sovereign nations well into the 20th century. In 1887 congress passed the General Allotment Act of 1887 based on the inherent sovereignty of Indian governments as the supreme authority to transfer property or recognize inheritance questions. The inheritance aspect is important to native Hawaiians as they have the same questions relative to succession to ancestral lands in Hawaii.

It was also in 1887 that the Hawaiian Reciprocity Treaty with the U.S was renewed. While there maybe a question about Indian sovereignty, there should not be one about native Hawaiian sovereignty based on this act of renewing the 1887 Treaty between Hawaii and the U.S.

In August 1976 a paper on Ethnocide in Hawaii was presented to the Tenth World Congress of the International Political Science Association in Edinburgh, Scotland, Ethnocide means the dying out of "unfit" groups, and is the process of natural selection among humans. A reciting of this scenario is a first stage of a self sufficient group, like Hawaiians. Ethnic groups in race relations usually avoid other tribes so food gathering can be accomplished without conflict in defense of a "homeland". Hawaiians may have first come to Hawaii for this reason and were at that stage, of adequate room up until the overthrow of 1893. The next stage is the plantation stage where plantation masters import other ethnic groups to work in fields, and here a major requirement is for ethnic groups to be divided from one another so that there is no chance that the power structure will be threatened. Stage three is the industrialization phase and last comes the post-industrial service economy. At this point inter-dependence, rather than competition is the key-note.

This could be interpreted to mean, now that the earlier plantation masters have consolidated thier gains or empires by whatever means, things should be put to rest, and the

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status quo sustained.

The paper on ethnocide continued to say, Darwin in his hypothesis of natural selection relied heavily on the Malthusian view that life is a "perpetual struggle for room and food". To that extent an island community is of that reality. There was a difference, as Malthus was writing about social conditions and societies and Darwin borrowed the theory to apply in his "Descent of Man" to caution Europeans to be careful in choosing a mate, lest degeneration occurs.

In the United States Darwinism provided a justification for withdrawing the Union Army as the occupying force over the defeated Confederated states after 1877, so the white elites could resume rule over blacks.

As such, Darwinism was readily accepted by the "haole" elite in Hawaii. The history of white and Hawaiian relations in the nineteenth century was reinterpreted by one observer in the following terms: "the decay of aboriginal society, when brought into contact with an advanced social order, was....inevitable". This is the theory used to explain away what happened in Hawaii and is the justification to perpetuate the questionable redistribution of Hawaiian assets and the maintaining of the status quo.

Yet there is hope, as published on September 3, 1982 the Reagan administration was moving toward terminating the Micronesian trusteeship with the signing of a compact of "free association" with the Republic of Palau. Negotiations have been completed with the Republic of the Marshall Islands while continuing those with the Federated States of Micronesia.

In effect the islands of the Pacific were under a trusteeship from after World War II and now seek more independent status for self determination and more responsiveness and better services by making their own decisions and choices. Hawaii has been under a form of trusteeship since beginning with the annexation of 1898 and it is time for native Hawaiians to determine their own futures and priorities. The past has well [illegible] how clearly that this is the only avenue to correct past abuses. Native Hawaiians have been patient and welcomed all to share their blessing sometimes even if it hurt. They also shared the limited material wealth they possessed as an old custom. There is no more to give, rather it is time for Hawaiians to be given back in kind.

TREATIES:

The first "arrangement" between Hawaii and the U.S. was in 1826. Other agreements sometimes referred to as treaties were concluded thereafter. The first Reciprocity Treaty was concluded in 1875 and renewed in 1887. Hawaii was sovereign.

The status of the Reciporcity Treaty is not clear but it can assured to be in effect based on the Articles II and III of the Resolution of Annexation of 1897, which declared in part: "The Republic of Hawaii cedes to the United States all lands and public property of every kind belonging to the government of the Hawaiian Islands". This ceding act was improper for two reasons. First, the Republic of Hawaii was not a legitimate government nor did it have a mandate to cede lands. Second, the ceded lands did have an identified interest in them not satisfied belonging to native Hawaiians and were not truly public lands as inferred in the ceding of 1897.

Further in Article III stated that treaties with foreign governments shall cease, this condition is not clear but still infers the treaty exists as follows by examination. In paragraph two, "The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaty so extinguished, and not inconsistent with this treaty, not contrary to the Constitution of the United States, nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine. This last condition is the same as in Article III that congress will legislate special laws for." Congress simply has not acted in both cases for native Hawaiians as yet.

The conclusion here is that the Reciprocity Treaty of 1887 is still in force, for how could it be cancelled by mutual agreement and as the conditions of annexation not be specifically extinguished as a condition of annexation.

In this connection a clarification rendered by professor W.D. Alexander on March 20, 1897 of the treaty follows: "Cession of Pearl Harbor Conferences w/Treaty of Reciprocity, the circumstances attending the cession of Pearl Harbor to the United States as a naval station in December 1884. Showing that Secretary Bayard at that time informed Mr. H.A.P. Carter, the Hawaiian Minister, that he could discern in the amendment to the treaty, which related to Pearl Harbor, no subtraction from Hawaiian sovereignty over the harbor to which it relates, nor any language importing a longer duration for the interpolated Article II [relating to the Harbor] than is provided for in Article I of the Supplementary Convention."

The Supplementary Convention was ratified by the Hawaiian Government with that understanding, that the right of the United States to Pearl Harbor should end with the Treaty of Reciprocity. It follows that should the U.S. terminate that treaty, it can be assumed they would enjoy no more special privelges.

ARCHIPELAGO CONCEPT:

There were treaties between Hawaii and the U.S. Such relations still exist apparently. If the early treaties recognized Hawaii's sovereignty and jurisdiction over its internal waters between islands that jurisdiction has not been clearly terminated. Because the jurisdiction is in question native Hawaiians may continue to exercise administration.

A first step to administration is to examine the Admissions Act of 1959 which was a hasty action with large oversights. The Admissions Act failed to determine the native Hawaiian interest in the ceded lands, that have been identified to be set aside or divided out beginning in 1345 and has not been acted upon as yet. The second failure of the Admissions Act was the proposition to permit the U.S. to set boundaries. This proposition was not well enough understood, as the great haste to effect first, annexation, and later statehood, denied proper study in both cases of the pertinent issues. It cannot be denied that native Hawaiians exercised jurisdiction over the waters between their islands. The question follows, what did Native Hawaiians get from annexation or statehood. Especially statehood would deny them the resources of land and those in the water including commerce conducted on the water between islands. There was not even consultation on the matters, there ~~was~~ were no benefits and it can be assumed there is opposition just as there was documented opposition to annexation.

Jurisdiction between island waters would include by ancient precedent the administration of minerals in the water. The Kingdom of Hawaii issued permits to mine calcium deposits in the past and clearly exercised jurisdiction.

As a matter of fact, any subsurface resource can be included in this jurisdiction. The U.S. has assumed the practise of retaining ownership of mineral resources in the deeds it will convey to purchasers of its (sic) property by quit claim. This assumption reinforces the native Hawaiian interest, for as the apparent successor, the ownership is being exercised, but without effecting a prior settlement for this privelege.

There is some meaning for Hawaii in the signing of the Law of the Sea by 117 nations in December of 1982. The U.S. has not signed and remains outside the treaty that it has taken 10 years to develop through tough negotiations. A reason for the failure to sign the treaty has been given as a concern over the deep sea bed and mining of minerals. There are in the world 116 straits ranging form 6 to 24 miles wide. The freedom of the seas, the Mare Liberum, has influenced a position on the Law of the Sea and right to innocent passage of the U.S. fleet. It appears because the archipelagic concept might interfere with the U.S. fleet operations worldwide, Hawaii is to be denied its archipelagic concept application because ~~and~~ such a concept is not observed by the U.S. The point is, Hawaii qualified as an archipelago and is an archipelago in every sense. There is no other benefit for native Hawaiians in any other sense or they shall be denied even further than they have. They have not negotiated away their interest in the archipelago and its resources.

Hawaii like other small Pacific nations have sought control over living marine resources including tuna. The archipelagic concept offers benefits to native Hawaiians they

deserve by inheritance.

COMPARATIVE SERVICES:

In 1975 more than 150,000 native Hawaiians were reported to live in Hawaii. Another estimated 20% live outside Hawaii so there is between 180,000 to 200,000 native Hawaiians in all. Some 30 to 50 thousand have moved out of Hawaii to live elsewhere and seek better opportunities. So while there is in-migration there is also a counter flow of native Hawaiians in an exodus seeking wider opportunities.

To examine the services available to native Hawaiians and a relationship of opportunites versus migration, the following institutions or organizations are enumerated.

In the private sector, some 2,800 students are partly subsidized at Kamehameha Schools out of an eligible total of 60,000 students. This indicates that nearly 5% of the total are served at Kamehameha on a full time basis. In addition some 9,000 or 20% of the population of native Hawaiians is also served on a part time basis on an annual budget of about 18 million dollars.

Liliuokalani Trust to serve orphan and indigentchildren operates on a budget of approximately 2.5 million dollars a year.

Lunalilo Home to serve aged or indigent native Hawaiians operates on a portfolio of investments valued at about 51 million to serve less than 100 individuals a year.

The State of Hawaii government administers the Hawaiian Homes Act of 1920 to place qualified native Hawaiians on homesteads. By 1975 some 3,000 families had been placed on homesteads. There are about 30,000 eligible familes who can

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qualify for homesteads. As of this writing there are about 7,000 applicants for homesites and agricultural leases. It would take some 400 to 500 millions dollars to place all of these applicants on the land and take many, many years. The budget of the Department of Hawaiian Homes has averaged about $13.5 million per year in recent years.

Alu Like Inc. serves all Hawaiians and is a non-profit organization. Funds are mostly derived from the federal government and the budget is about $4 million annually.

The reciting of the statistics on the foregoing agencies can assist arriving at the amount, or cost of service, that is rendered to each native Hawaiian in the state as opposed to the entire state populatin for a comparison.

The compilation follows:

Kamehameha Schools	budget	$ 10	million per yr
Hawaii Homes	"	13.5	" " "
Alu Like Inc.	"	4	
Liliuokalani Trust	"	2.5	
Lunalilo Trust	N/A	----	
	Total....	38	million

It appears that native Hawaiians recieve in special benefits, about $150 per capita per annum. Or the number of native Hawaiians today divided by the total budget of 38 million dollars. The benefits so derived, come nearly equally from private and government sources. In practise it must be realized, that only the smaller percentage of beneficiaries are served and that there are other contradictions, even discrimination involved.

At a glance it can be seen that the state's total budget of $3 billion dollars divided by the population works out to about $3,000 per capita for fire, police, roads, schools and services, all from taxes. There is a difference, which

is due to the planned private sector and not by taxes. Yet there is another difference, native Hawaiians share the revenues generated from their ancestral lands with the entire population but the reverse is not true. This appears discriminatory and some adjustment seems reasonable.

If by conjecture the Hawaiian Homes Act of 1920 could be considered some form of reparation, it may have done one thing. It recognized that native Hawaiians had a right to such lands by their interest via succession. Even if the right to succession might cease because of a blood quantum requirement.

The record reflects that by 1975 only 25,000 acres out of the original 200,000 had been parcelled out to assist rehabilitation, as the stated purpose of the Act, but it may have been a cruel joke. This is because all the better lands were under cultivation already, leaving only poor lands to cultivate, as an intent of the Act. So the intent has not been achieved and may never be, but which continues to lead to expectations and perpetuation.

In 1890 some 40,000 native Hawaiians existed. By 1920 when the rehabilitation act was implemented an estimated 50,000 natives could qualify for the acts benefits. Today there are a little more than 30,000 who can qualify under the act for benefits. The 200,000 acres set aside by the act for between 40 to 50 thousand natives indicates about 4 to 5 acres per individual was contemplated. Or may have been the formula used in the rehabilitation acts setting aside 200,000 acres.

A recent closing of a sugar opantation on the big island of Hawaii outlined the proposal, as a severance measure, of assigning 5 acres to each employee discharged.

The proposed 5 acre assignment equates to the number assumed to be the basis in the Hawaiian Homes Rehabilitation Act of 1920. Although there is a difference. The plantations lands to employees are good cultivatable ones as opposed to the poor lands native Hawaiians are assigned. The disparity grows wider because the cultivatable or good lands are prime candidates for future development. To keep land in agriculture the state may have to purchase these lands and land bank them for future benefit and to conform to the state's "selective growth" posture. However it is accomplished, it is certain native Hawaiians will have to continue to pay.

POPULATION:

Population is a factor in Hawaii and should be a concern of all. If it is not a concern for all it is a concern for native Hawaiians if only because population stretches resources and reduces opportunities.

Hawaii is fragile, more so than Hong Kong or California. Both Hong Kong and California have water problems among others and have solved their problems by acquiring water from the new territories of adjacent Communist China for Hong Kong and California from Owens valley for the city of Los Angeles by painful confrontation. Today the word in California seems to be, go anywhere but the proverbial west, because of the water supply. Hawaii has no adjacent water source to tap when there is a need. Aside from that there has been large influxes of refugees and such into both these regions as well as Hawaii, but in Hawaii the increase has been dramatic proportionately.

In January of 1977 the state legislature was apprised of the state of the state in a gubernatorial address which pointed out tha-t a fragile community like Hawaii could be easily destroyed by overpopulation and exessive demands on its resources. There followed the expression that we should not endure uncontrolled and unregulated futures. We must shape our own futures and not passively accept what events the freee market forces might impose upon us but rather support "selective growth" concepts.

On the other hand present U.S. Laws prohibit ridged population controls and therein lies a paradox. A state like Hawaii was never considered when the union was formed

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under the constitution as a non-contiguous state with the limited resources of an island. AS the only such state there should be an exception by some arrangement to protect and preserve the integrity of such an unusual island state. There are discussions of supporting many more times the present population, however such talk does not take into consideration the fact that migrating in Hawaii to find another job is not just a matter of picking up in a car and driving to another region to find a job to support oneself. The suggestion that Hawaii can support many more times its present population is not a well thought out proposal. The examples of island states that have experienced large populations has demonstrated that there are unsatisfactory problems of many kinds in crowded and impoverished islands. Fundamentally it is more humane to distribute the regions assets more evenly in sharing on an island than to crowd masses on with a small affluent minority at the top and a large mass in poorer straits to scramble for any sustenance at the other end of society. Hawaii has a history of such an arrangement, of a small affluent group at the top and immigrant labor supporting the entire structure, there is no need to perpetuate the examples already acted out in the past.

It is unfortunate that the Simpson-Mazzoli bill on immigration reform did not pass congress in December of 1982. Chiefly because it appears as if there is also a national concern about overwhelming immigration. There is a matter of conscience involved, as all American are immigrants or their descendents and to bar further immigrants would appear to be hypocritical. Yet, there is a difference for native Hawaiians

who are not immigrants but original inhabitants trying to preserve themselves and theirs. Further in Hawaii the process is reversed. While each group immigrated to America enhanced it, actually the country had a greater effect on the immigrants themselves, especially later generations. But it could be said that the immigrants have had a greater effect on the original Hawaii and its people to the detriment of native Hawaiians than in the foregoing assessment and is in Hawaii the other way around.

At this point it seems Hawaii by its elected representatives may not be facing the issues with urgency. Or if they are it has taken a long time to recognize the issue. This being the case native Hawaiians should be managing their own affairs as the original inhabitants of the land with an interest in it.

LAND VALUES:

To use an example, the Princess Pauahi Bishop Estate of Hawaii consists of approximately 300,000 acres of land now valued in the neighborhood of $3 billion. Federal lands in Hawaii, largely those acquired as ceded lands in 1897, approximate now 400,000 acres. By the foregoing it can be calculated the present value of aggregate land in Hawaii will have an indicated worth of $1 billion per 100,000 acres.

Therefore the assumed worth of the 400,000 acres of federal land in Hawaii acquired in the ceding of some 1.7 million acres in 1897, is now worth approximately $4 billion. A usual reasonable return on such a total value could be between 2 to 6% of the value of $4,000,000,000 or at 6% the income or rent could reach $ 240,000,000 per annum.

Based on the native Hawaiian interest in the ceded lands any income or portion of $ 240 million would be a welcome change from the past oversights where there has been no compensation at all. On the other hand even foreign nations recieve compensation for the use of military or diplomatic installations. These are the Phillipines ($500 million a year), Japan, Korea, Panama, Cuba, Diego Garcia and others too numerous to mention. Some of these nations strongly protest to the preacense of nuclear weapons but not Hawaii.

By way of comparison the Passamaquody Indians in Maine asked for $25 billion for their lands in Maine and the Reagan Administration in 1982 attempted to sell land in Waikiki, Hawaii on the beach for $ 225 million. The huge value of the ceded lands and their potential income over the years can be

appreciated. Not only the income is substantial but also the interest on the income would be an astronomical amount if computed from the beginning to the present. There is no reason for native Hawaiians to be deprived of this income over the years, with society acknowledging that compensation is the acceptable mode of dealing within the community for services or use of property.

The point is, if the overthrow of 1893 spawned an illegitimate government, and the evidence is ample, then the transfer of sovereignty and 1.7 million acres of ceded lands was also illegitimate. It is certain the annexation of Hawaii was promoted by those who were involved in the overthrow and would go to any lengths to achieve a union to protect their interests. In the effort to transfer sovereignty and the assets of native Hawaiians it is evident the U.S. accepted the transfer as trustee. The beneficiaries have been failed by the trust because native Hawaiians have been taxed 100% and no benefits accrued to them directly since the overthrow of 1893. Because this is so, the trust should be terminated. Native Hawaiians can assume the management of their own assets and determine their own priorities.

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LEGACIES:

When Thomas Jefferson in June 1776 drafted the Declaration of Independence he recited the philosophy of continental philosopher John Locke as to the ideals of individual liberty. Then during the debate on the U.S. Constitution it was fresh in the minds of the people of the new United Colonies, the memory of the central British governments violation of civil rights. To counter-balance the strong central government of the U.S. Constitution, the Bill of Rights was perfected to maintain the rights of the people. These three documents are the legacies of the American people.

In Hawaii the constitution of 1840 could be construed as a declaration in independence as it freed the commoners from the labor tax and gave them political power by a grant from the King.

Previously in 1839 the King had granted an "Amendment of Rights" to equate to the "Bill of Rights". Following the first constitution of 1840 came constitutions to better define the role of government. Progress had been rapid in Hawaii, as by comparison in California in 1850, the Fugitive Slave Law was summarily enacted.

There are similarities in each region of the origin of constitutional governments for both cases is legacies. But in Hawaii there is a difference. The legacies left Hawaiians were developed from their ancient culture, not so in the U.S. In addition to the original founding documents, the legacies exist in many other areas.

These other areas include the visible hospitals, Queens, Kapiolani Maternity, Kauikeaouli Children's. There is the educational institution of the Kamehameha Schools. The Liliuokalani Childrens Center for orphan children and a home for the aged and indigent donated by King Lunalilo. There is also the maligned Palace, severely critisized during construction but only now appreciated. And there are many others that can be experienced today of lasting enjoyment. All of these are the legacies to Hawaii to be earned and preserved for posterity. Including the Kuleana Act and its concept. There were not many others left to their heritage and attests to the soundness of the early leaders (alii) who foresaw the needs. These activities indicate the intents of the Alii of Hawaii relative to the declaration of Kamehameha I, "the lands belong to the people in common" to be followed by the expression "the land shall descend to the Heirs forever". This expression is borne out in the existence of the landed properties of Kamehameha Schools, Liliuokalani Trust and the Queen's hospital, all operational on the income from a land base. This also alludes to the interest in the Crown lands or ceded lands of Hawaii and the succession of these lands to the descendents. There can be no other interpetation of the early declarations and intents.

The interrruption of this intended process, has put down the native Hawaiian constitutional legacy and attempted to reinterpet the intent of land succession by redistributing it. At the same time there are legal activites that attempt to explain or justify the redistribution.

These activities should be refuted as being not representative nor the will or intent of the native Hawaiian.

With regard to the native Hawaiian constitution legacy, it has been held in suspension since 1893. In response to published advice that native American groups were being advised to update their constitutions, a native Hawaiian group, the Council of Hawaiian Organizations, forwarded an inquiry on the matter in August 30, 1976. The Department of the Interior replied, the Aboriginal Hawaiian Claims Settlement Study Commission was being considered to look into Hawaiians matters and the inquiry appeared premature. The legislation to establish the "Commission", S.J.R. 4 did not pass congress.

In late 1980, the Native Hawaiian Claims Study Commission legislation P.L. 96-565 passed in congress. The Study Commission, during hearings in Honolulu, Hawaii in the month of January 1982 was advised of the earlier inquiry to update the Hawaiian constitution. Matters were rested till the present awaiting the Study Commissions recommendations.

REAL ESTATE:

In Hawaii, real estate occupies a unique position. It is said, that when E.F. Hutton the stock broker speaks everyone listens. But this is not the only time because when real estate is mentioned in Hawaii at a cocktail party all conversation stops. Anyone who moves to Hawaii is expected to get a real estate license to help sell properties of land, homes, condominiums and time sharing. It is a Mania out of control.

In 1979 the Hawaii state legislature was considering regulating time sharing sales in Hawaii. A year earlier, in 1978 time sharing operators had agreed to stop soliciting people on the streets in the tourist mecca of Waikiki. There had been hundreds of consumer complaints about abuse, harassment and high-pressure tactics. By 1981 legislative action was again being contemplated to ban future time-sharing real estate sales companies operations and to stop solicitations of tourists on public beaches and side walks.

It was also in 1978 that a real estate appraisal firm was charged in a campaign fund kickback scheme for political contributions made to various state campaign coffers in 1978 and 1979 in the amount of $8,000. Those charged explained that political contributions are a customary part of doing business with the Hawaii state government. However, it was not realized some of the money so acquired may have come from alliedgedly padded sub contracts with the state. Those charged were accused of conspiring to pad a government Hawaii Housing Authority contract and apply the overcharge to selected campaign coffers.

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The issue is, there are opposing forces at work, one to cut up and sell everything and the other is to Preserve what is left and can be saved. The short term is to tUrn over quickly by any means as maybe seen by the following.

An example of why housing is costly in Hawaii can be seen in the case of two developers in 1959. The developers transferred the development rights for 900 acres they acquired to a company they owned, Lakeside Development Company. Then the development rights were transferred to Hawaiian Pacific Industries, which they also owned and finally transferred to a third entity they owned, Island Construction Company. The developers in each of the three transfers were to recieve profits and all taken without providing any construction at all. Meanwhile the cost of the home to the consumer would be inflated and the sales thereby inhibited as the holders of the master lease would be limited to the original low lease rent income. So while the income in the lease rent is fixed, the cost of a home increases (owing to profit-taking in the miltiple assignments), and at the same time the maketablity decreases due to higher price. This practise is a part of land speculation in Hawaii.

The problems with residential leased rents, as they had been pointed out earlier, that development agreements were usually written to favor developers at the expense of the land holder. The land holder, in this case the Bishop Estate, in times regions, had agreed to give anywhere from 50 to 95 per cent of the lease rentals to developers for a period of 25 years. In this case native Hawaiian beneficiaries were to be shoved again. The total income from the estates properties

was close to $10 million per year. But an analysis shows that in one area alone, the Pearl harbor properties of 15,621 acres there could be the same number of residential lots as acres. The average lease rent per lot per month was $190. This means there is about $10 million total in annual lease rents for the 15,621 acres for 25 years. A developper retaining In a "sandwich deal", 70% of the lease rent generated would recieve $7 million per year compared to the estates total income from all of its lands of only $10 million per year. Or put another way the rent not recieved in the sandwich deal would nearly equal the estates entire yearly income from its total lands. For the life of the lease the total rent not recieved and enjoyed would be a handsome $190 million including interest.

Although this was a practise at the Pearl Harbor Heights area, other leases existed at Enchanted Lakes, Hawaii-Kai Development Company, Alii Shores, Krown Terrace and Haiku Plantation.

The annual master's report commented on the matter to say, "to find a large landowner, such as the Bishop Estate, in a period of greater shortage in the supply of land for residential use, to find it necessary to pay such substantial amounts in the way of lease rental participation as an inducement to such a developer, is inconcievable".

Not only were the trustees neglecting to protect the interests of the Estate, they also seemed to be active partners in creating and sustaining the infamous housing situation. Instead of limiting speculation in their development

agreements, the trustees were content to let speculation continue unabated. As a result, more and more families in Hawaii found they no longer could afford to buy a house. The only people who benefited were the developers, who were promoting a high turnover in development rights to Bishop Estate land.

Why does this happen? Perhaps one answer can be the State Land Use Commission which designated urban lands and influenced the development process and benefitted developers who supported the incumbent political party. The same party influenced the appoitment of the same trustees who acted on both sides of the issue as commissioner and then later as trustee of the Estate to grant development rights.

But there is another facet to the entire process. The process generates back lash as the home buyers in paying the high initial fees accumalates an interest in the package that has to be considered later when the fee sale is considered. Although the home purchaser has paid out his money it has to a great degree gone to the developer, not so much the estate. When the lease fee interest is computed the Estate invariablly will be forced to accept less than the fair market value. So the process means the developers closely associated with the political party in power are literally into the Estate. This being the case some other arrangement should be sought to protect the interests of the native Hawaiians in their estate. One way is to grandfather the estate out of the dilema. Since the Princess Pauahi concieved her will under her own government and expected that the administration would remain understanding and compassionate and not subject to another political power

a return to that status would be most reasonable. There is not so much a need for develppors in the estate as trustees, as sometimes argued, because the results can be seen. The income of the estate has not proportionately increased, because we will be reminded that lease rents stay low for 25 years until renegotiated. On the other hand the developers do quite well, in fact more than well. In fact, educators are not needed on the board either as can be seen by the past. What is needed are businessmen to manage the estate properly with out ties to the political community or associated with development interests as have been the case in the past.

The same developers also tried to circumvent the laws intent by developing two acre "residential" lot in the Waiahole-Waikane area of Oahu. There was stiff resistance and an actual confrontation in that instance that involved the tenants some of whom were Hawaiians of long residence. It was obvious that two acre parcels were not for the ordinary person living in Hawaii and that the resources and lifestyle of the region would be displaced for some other more affluent lifestyle. The issue has calmed down and leases have been arranged.

In Mokuleia on Oahu the same type of development has been proposed. Prior to the sale of the parcel involved legal notices in the paper began appearing to name the hiers to certain properties of the distict. As few, if any hiers, came forth by the specified time the property was quiet title acquired. In a related sale that followed the Northwestern Mutual life Insurance Company acquired

Mokuleia lands as only an "investment". Very shortly after the purchase the Life Insurance company outlined plans to develop two acre farm lots at Mokuleia. It seemed rather odd that after saying the land was not going to be developed, immediately thereafter a plan for such was submitted. As usual there are water and access problems for the "agricultural" subdivision.

A concern is that, according to a publication put out by the Nature Conservancy organization, for every $1.00 expended by a developer the long term costs to the community will be $3.00 to maintain support services. So in effect the purchaser pays the initial costs of a unit purchased but the community has a long term indebtedness due to the activities of a developer. It is no wonder the communities taxes are high to keep up with expanding development. By these conditions, increased development is not necessary to the community and even less to native Hawaiians.

What has come out of all of this is Honolulu is a haphazardly planned and poorly designed city. A poor imitation of any mainland city. Some neoclassic, Doric or Renaissance. Because this is so, Honolulu has already missed its opportunity to develop an indigenous architectural style with its mainland imitation of a city with a "heavy" style. Such heavy style influenced by the introduction of air conditioning and its questionable efficiency. Meanwhile the city continues to grow haphazardly putting up as many heavy mainland type buildings as possible. Land, in Hawaii, has not developed as an asset to be used and built upon wisely; rather it is a commodity intended to produce as much income as possible from the land in revenues. In view of this widely prac-

ticed process to extract as much as possible, from the land in revenues, the native Hawaiian needs lands set aside, to continue a reasonable existence, preferrably from the ceded lands.

LAND OWNERSHIP
State of Hawaii
Federal Government
Major Private Landowners
NORTHWESTERN HAWAIIAN ISLANDS
HAWAII

INDUSTRY:

Industries for Hawaii are worthwhile to contemplate. Past [illegible]ory indicates that it all started with agricultural products like sugar raising. Then came the rise of military spending for many years to be replaced by the touris industry as the top economic producer in Hawaii.

In 1982 the tourist industry reported the best year ever. The forecast for 1983 is a tapering off. A University of Hawaii professor in an address to the Hawaii Economic Association pointed out that the rising energy costs in the 1980's will result in higher shipping and transportation costs to tend to increase the cost of construction and basic costs of living in Hawaii. He also noted a trend of indigenous young people being forced to the mainland to find jobs and the need by some of the U.S. military to use food stamps in Hawaii to make ends meet because of the high cost of living. There will be further strain caused by continuing price rises. This condition may slow population growth but at the same time curtail economic activity. Higher costs will put severe stress on the competitiveness of the Hawaii visitor industry and create problems for exports of sugar and pineapples while affecting imports of feed for the livestock and dairy industries. Social, racial and economic stresses, along with resultant crime could reduce the appeal of Hawa[illegible] a place to headquarter for corporations or to vacation. There are problems of crime supported by the drug trade and accompanying vices. Hawaii has all the potentials to attract organized crime reports the Honolulu Police Department who state they are not able to cope fully with the problem even at the present.

What about attracting "clean" high tech industry? Hawaii faces a tough competitive fight in attracting these "clean" industries, it has been pointed out at a big island Private Industry Council meeting, in late 1982, of executives from Hong Kong and Taiwan. Hawaii maybe lacking in a skilled labor force, acceptable living costs including housing and a favorable tax structure.

What are the alternatives, if any? Hawaii has labor although unskilled but not affordable housing which is accompanied by the highest cost of living, nor a favorable tax structure to attract business. Yet the possibility exists for native Hawaiians to attract such businesses by affording favorable tax structures and the entire community can benefit. In some cases there is a lack of competition in Hawaii. There has been a concentration of economic powe[illegible] early times and along with economic power has gone political power. One clear area that has remained essentially the same has been banking. Native Hawaiian may assist in this area with a special status.

So while it would seem Hawaii has a monopoly to offer in tourism and climate, it does not have one to offer new industries because of the high cost of living including housing and suggests some change in the supply structure is desirable.

As far as increasing the number of travellers to Hawaii, it is possible provided it is not to increase the population. Even the state governor as far back as January 1977 advocated "selective growth" as a future policy for Hawaii. This philosophy is used in other destinations that encourage visitors but not residents and are quite blunt about the situation.

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This maybe accomplished by creating a shopping mecca which can attract tourists from across the world seeking bargains. It works in practice, like in Hong Kong and could work for Hawaii. But again only with a special status that can be achieved by native Hawaiians.

In such an undertaking the native Hawaiian would appear to be the only group to offer such an attraction to encourage competition for community benefit. Native Hawaiians would like to see more competition in Hawaii in several areas to help reduce the cost of living. Hawaii has not moved too far from the era of the 1900's to the 1940's. Although there is more foreign investment it many times is more of a speculative nature and not especially concerned with the long term welfare of Hawaii.

INDUSTRY & POPULATION MILESTONES

1779	Captain Cook arrives to find an estimated population of 400,000 natives.
1831	Sharp population decline to 130,313
1835	First sugar plantation on Koloa, Kauai of Ladd & Co.
1848	Kamehameha III land division of Mahele, creating private property.
1851	Native population down to 73,137
1865	First contingent of 522 Chinese arrive to work at $4 per month
1868	First group of 148 Japanese arrive as contract labor
1872	Population further decreased to 56,897
1875	Kalakaua signs first Reciprocity Treaty, creating an exclusive tax free import-export status
1887	Kalakaua extends the exclusive Reciprocity Treaty to permit United States access for seven more years until 1894.
1890	Total population is 89,990, native Hawaiians are now only 40,500.
1900	Annexation completed and Organic Act implemented
1922	First group of Filipinos arrive
1930	The Planters Society first organized in 1854 have now brought into Hawaii some 400,000 men, women and children for plantation labor.
1934	Jones-Costigan Act threatens Hawaii sugar and again spurs a Hawaii statehood movement to protect sugar.
1935	There are 37,500 sugar workers on plantations
1940	Hawaii's population is 422,770 or it now approximates that of Hawaii when Capt Cook first arrived.
1941	There are 31,846 tourist to visit in Hawaii
1946	The last Filipino contingent arrives and the International Longshoremen and Warehousemen's Union (ILWU) organize the industry and carry out the first strike against the sugar planters now producing one million tons of sugar annually.

1940	There are [illegible] tourist to visit in Hawaii
1950	72% of the world's pineapple for the market is produced in Hawaii
1954	The Democratic party takes over the reins of government to terminate the planters Republican party control.
1959	Hawaii becomes the 50th state and spurs a business boom that lasts more than a decade and brings construction of many of the high rise buildings of today.
1961	The Democratic party develops the Anti-Trust Law forbidding inter-locking directorates. Majority share holders in several of Hawaii's factoring houses pass to out of state share holders.
1967	First year 1 million tourists arrive in Hawaii
1969	Hawaii now only produces one third the world pineapple crop and down from the 1950 production.
1970	Hawaii's population is [illegible] or nearly doubling in thirty years since 1940.
1972	First year that 2 million tourists arrive in Hawaii
1974	Congress allows the Sugar Act to expire and after forty years of price support, sugar fluctuates on the world market.
1977	There are only 7,500 workers on the sugar plantation due to mechanization while sugar production remains at over 1 million tons annually
1980	Hawaii has a population of 964,000 and is approaching the 1 million mark.
1982	Hawaii has catered to 4.2 million tourists during the year to generate over 3 billion dollars in revenues.
1983	Predictions are that tourism may increase by 5% in the coming year subject to a generally poor economy.

CONCLUSION

The great preponderance of data and examples in the areas of concern point out that native Hawaiians have done better in the past for themselves and the conclusion follows that they can do better for themselves in the future. This conclusion is based on Hawaii's history prior to 1893 and the responsiveness of government to native concerns at the time.

For example the history of the annexation alone is a case in point that clearly shows the illegitimacy of that act and the conduct of the incumbent government prior to that act.

In that connection it is a wonder, how anything of lasting appreciation could be, or was built during the years of Hawaii's government after the overthrow of 1893 as the controllers of Hawaii's wealth did not permit the drain off of funds into the public sector for any improvements. This inference is supported by the fact that this lack exists and is a revelation of attitude, whereas the native Hawaiian had the pride to construct those [illegible] that gave him identity and a lasting relationship to his homeland. The record indicates that the [illegible] for the period were [illegible] tax [illegible] the [illegible] through school, [illegible] almost exclusively.

Speaking about annexation, it had been considered at times previous to that of 1898. The problem is, then, it was considered from the native Hawaiian viewpoint and benefit but when finally accomplished only served the ends of non-Hawaiians. It is totally within the realm of possibility that because the island of Guam and Puerto Rico have often been mentioned as new states to the United States, that the Hawaiian people would consider becoming a state on their own terms with their own congressional delegation, notwithstanding that no state maybe carved out of another. Although the ceded lands may serve to overcome this obstacle as a qualifying land base.

In addition the Organic Act of 1900 was unsatisfactory in many ways. Although it adopted en masse the great body of Hawaiian statute law evolved from traditional Hawaiian practices it failed to clearly recognize the native Hawaiian interest that they have in their ancestral lands. The Organic Act only served to further land proliferation founded on illegitimate acts to the detriment of native Hawaiians.

The Statehood Act of [illegible] was, followup of the Annexation. In many ways the interests of the native Hawaiian were overlooked [illegible] review because of this fact. Today it is more a matter of identifying ancestral lands not conveyed or [illegible] held in a trust. Such lands can be designated as formerly held by the descendants of the original native Hawaiians through succession.

RECCOMMENDATIONS

Based on the many conclusions in the areas of concern such as: LAND & HOUSING, BLOOD QUANTUM, RELIGION, PRIVATE SECTOR, CRIME & DELINQUENCY, LAWS, EDUCATION, JOBS, TOURISM, FRESH WATER & LIFE, VALIDITY OF REPARATIONS, FORMING THE UNION & TODAY, TREATIES, ARCHIPELAGO CONCEPT, POPULATION, LAND VALUES, LEGACIES, REAL ESTATE, and INDUSTRY there is a pattern as to what the native Hawaiian deserves the most. It is first, a land base and the sustaining support to operate it. The existance of successful native Hawaiian land bases to serve native Hawaiians strongly support this view. It appears that a denial of a land base has caused the many deficiencies that they suffer at present. It is obvious that native Hawaiians developed their behavior around a land base and its lack or denial is directly related to their present quandry.

Where is this land base? It is in the ceded lands. In this designation there is not expected to be any dislocation and what land tenure is established should remain with those who have made purchases or investments in good faith.

What kind of a land base should it be? It should be first, an unencumbered land base in every respect. The final status or parameters should be determined in future negotiations.

GEORGE R. ARIYOSHI
GOVERNOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
825 MILILANI STREET
HONOLULU, HAWAII 96813

JOSHUA C. AGSALUD
DIRECTOR

ROBERT C. GILKEY
DEPUTY DIRECTOR

January 18, 1983

Ms. Kina'u Boyd Kamali'i, Chairperson
United States Native Hawaiians Study Commission
500 University Avenue, Apt. 1401
Honolulu, Hawaii 96826

Dear Ms. Kamali'i:

Thank you for the opportunity to review and comment on the Native Hawaiians Study Commission "Draft Report of Findings" relating to employment opportunities in the State of Hawaii.

We feel that tables 16 and 17 should be updated to include 1970 data to give the reader an indication of more recent trends. 1980 Census data are not yet available. Also on table 17, figures for Hawaiians should be provided for the other major occupational groups—professional, technical, and kindred workers and laborers. This will enable a person to compare data among the various ethnic groups to see how Hawaiians are faring in the job market.

If you have any questions, please feel free to contact Mr. Frederick Pang, our Research Chief at 548-7639.

Very truly yours,

Joshua C. Agsalud

Joshua C. Agsalud
Director of Labor and
Industrial Relations

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22 November 1982

Native Hawaiians Study Commission
Department of the Interior
18th & C Streets
Washington, D.C. 20204

Dear Members of the Commission:

Thank you for the many hours of work you have done in meeting with our native Hawaiian people, and in trying to define who and what we are, where we happen to be, why we may or may not need assistance of one kind or another, and what that assistance might be.

The report reminds one of the cursory inspection of an elephant by six blind men — all with the laudable intent of trying to define the nature of the beast. One felt the leg and said, "The elephant is a tree trunk"; another felt the tail and said "The elephant is a whisk broom"; another felt the side and said "The elephant is a wall"; another felt the ear and said: "The elephant is a big leaf moving in the breeze"; another felt the trunk and said "The elephant is a great snake"; another felt the tusk and said, "The elephant is a sharp spear."

All of them had said something of the truth, but all of them had fallen far short of the truth. They really never saw the elephant. Any attempt to fashion laws "For the good of the Elephant" on the kind of report they had submitted would be unfair to the elephant...would be both tragic and comic.

What I am saying is that any cursory report of any people by anybody, however well intentioned, is no basis upon which sound and just laws can be devised.

For instance — the believer in his impression that the elephant is a tusk can write a great chapter on the tuskhood of the elephant and come up with a great paper describing that aspect of an elephant as the whole elephant ... and so can the others...but all those descriptions would miss the true nature and function of even that part of the elephant.

For instance — the section on RELIGION. Who is going to write that chapter? And since when is religion merely something you put under "culture"?

.../2

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Native Hawaiians Study Commission
22 November 1982

.../2

May I recommend that the whole report be put on "hold", and considered as the cursory statement it is. You will indeed — as Senator Inouye has said — be doing great violence to the native people of Hawaii if you submit such a report as this to the Congress under the banner of "the truth, the whole truth, and nothing but the truth" about native Hawaiians and the data for the framing of future laws regarding the Hawaiians.

With all due respect and gratitude for the good intentions, time and energy you have given to your designated task.

Aloha nui,

The Rev. Abraham K. Akaka

DANIEL K. AKAKA
[illegible]

[illegible]

23

Congress of the United States
House of Representatives
Washington, D.C. 20515

November 22, 1982

Commissioners
Native Hawaiian Study Commission
U.S. Department of Interior
Washington, D. C.

Dear Commissioners:

This is to respond to the request for comments on the Draft Report of the Native Hawaiian Study Commission released September 23, 1982 pursuant to P.L. 96-565.

After examination of the Draft Report, I would like to offer several general criticisms. First, analysis of Hawaiian culture and history is made from a thoroughly Western perspective and is therefore biased. While complete elimination of this particular bias may be impossible, at a minimum, acknowledgement that it exists should be included in the introduction to the report. A more outrageous example may serve to illustrate the inherent problems caused by such a bias. Page 115 of the report recounts the two-year "period of licentiousness" embarked upon by Kamehameha III. As proof of this period of so-called moral depravity, the report cites the King's participation in the hula and other "native activities;" nowhere in the report is a definition of these activities found. This prudish analysis of the King's behavior serves to perpetuate the Western notion of the hula as a dance closely resembling burlesque or strip-tease and completely ignores its primary place in the ancient Hawaiian religion and culture. Further, the source for the explanation of Kamehameha III's early reign is not indicated.

The importance of historical accuracy in this report cannot be overstressed. Without a thorough recounting and analysis of the history, the rest of the report is meaningless. The inaccuracies of the historical analysis upon which the legal conclusions are largely based lead me to the opinion that the legal section is inherently flawed. The conclusion that compensation is not justified is therefore called into question. The inaccuracies of the historical section begin with the references used in the several sections recounting the history of Hawaii and analysing the legal bases of claims. Few first-hand accounts of either the Monarchy period, the Provisional Government or the Republic of Hawaii were used. In addition, well recognized historical accounts of the critical period between 1887 and

1898 were not utilized. The Commission cannot ignore the bulk of the first-hand accounts and historical analyses of the accounts and historical analyses of the times. A comprehensive bibliography of references must be included in the final report. The absence of such a bibliography could easily mislead readers into believing that the views expressed and conclusions made represent the sole authoritative interpretation of historical events . . . which, of course, they do not.

First-hand accounts not referred to in the Draft Report include Despatches of Special Commissioner James H. Blount (M-37, Rolls 15-19, National Archives); My Own Story by Queen Liliuokalani; and the papers of several prominent participants including those of Lorrin Thurston (Hawaii Archives), William R. Castle (University of Hawaii Library), Cushman K. Davis (Minnesota Historical Society, St. Paul), Henry Cabot Lodge (Massachusetts Historical Society, Boston), William R. Day, John W. Foster, and Samuel Gompers (all contained in the Manuscript Division, Library of Congress). I was especially surprised that the Blount despatches were not consulted since they contain five volumes of information including interviews and letters of over 100 people who had some first-hand experience with the events leading up to the overthrow of the Monarchy and the establishment of the Provisional Government. Ignoring this material is a mistake.

Exhaustive bibliographies can be found in The Hawaiian Revolution and The Hawaiian Republic by William Adam Russ, Jr. A more recent work reviewing the five-year period following the overthrow of the Monarchy up to Annexation in 1898 contains the most complete bibliography of first-hand and secondary references (see Thomas J. Osborne, Empire Can Wait, American Opposition to Hawaiian Annexation 1893-98 (The Kent State University Press, 1981). Both Russ and Osborne are essential to any complete review of Hawaiian modern history. In addition, I strongly recommend a review of the news articles published in the United States relating to the overthrow of the Monarchy and the issue of annexation. I would also add that the final report should include the several works analysing American diplomatic history and the onset of jingoism. Examples of such works include The American Diplomatic Experience by Daniel M. Smith, A History of American Foreign Policy by Alexander DeConde, Adventures in American Diplomacy, 1896-1906 by Alfred L.P. Dennis, A Diplomatic History of the United States by Samuel Flagg Bemis. Numerous articles can be found in publications of the Pacific Historical Society, and in the Mississippi Valley Historical Review, and the Journal of Modern History.

These articles should be consulted, and the issues studied. At the very least, a bibliography should be appended to the report.

In addition to these general criticisms, I note that there are many questionable statements in the text of the report. In some cases, works and phrases convey a puzzling if not altogether false perception. For example, on pages iii and 38 Hawaiians are classified as immigrants. This is clearly not the case unless all racial and ethnic groups can be classified as immigrants. Another puzzling choice of words is found on page IX which talks about the "fall of the Monarchy." This choice of words conveys the false impression that the change of governments was a benign change. Needless to say it was not benign, despite the fact that it was not accompanied by bloodshed. It is obvious that the Monarchy did not fall; rather it was overthrown.

The introduction also states that Texas was annexed. As the report later points out, use of the word annexation in relation to the entry of Texas into the Union is false (see p. IX).

Finally, the report's introduction defines Native Americans as Native American Indians. This is clearly not a correct definition since the definition does not include Native Hawaiians and Alaskan Natives who have been recognized as Native Americans under several laws (Comprehensive Employment Training Act, P.L. 95-93; Native American Programs, P.L. 95-568).

Chapter V, outlining the early history of Hawaii and the social structure that developed, relies far too heavily on a comparison with the feudal structure such as it existed in Europe during the Middle Ages. This comparison is undoubtedly made to simplify understanding of the Hawaiian social structure. However, it also tends to rigidly categorize the Hawaiian social structure and does not adequately explain the true system of interrelationships.

The claim that "social disruption" was caused by Kamehameha I becoming the prime agent for the sandalwood trade is made without substance (p. 19-20). Where is the evidence for such a claim? There is no citation to indicate the source for this conclusion. Without an identification of both the source and the justification for its conclusion, I find the statement implausible since it suggests that the Hawaiians are to blame for their own demise.

Page 31 of the report concludes that the school attendance rate is low "probably due to the attitudes of children and their parents, toward education in general, and American education in particular." If this conclusion is correct, why did a 1977 Alu Like survey conclude that among Native Hawaiians education was the number one priority? The conclusions of the Draft Report and the Alu Like survey are clearly inconsistent and should be resolved in the final report.

Page 67 relating information on the small size of the electorate states, "A major reason was the required Oath of Loyalty to the Republic in order to register." It is apparent from a reading of personal papers (Thurston, Cooke, Blount despatches) and historical analysis (Russ, Kuykendall, Osborne) that the Oath was not alone responsible for the small size of the electorate in 1894. The Oath of Loyalty to the Republic combined with the property and income requirements served to effectively disenfranchise the majority of the population. Equality was not the aim of the Provisional Government; its goal was an oligarchy combined with a representative form of government that would provide an atmosphere conducive to the growth of business (see Russ, The Republic of Hawaii, page 15 quoting letter from Smith to Thurston, February 18, 1894). For Lorrin Thurston, leader of the annexationists, the matter was clear, "we made a failure in 1887--we tried to do with low grade voters. Boards will be too lenient in examination, instead of being too strict, we should fix qualifications high."

Page 116 contains a reference to the relationship of Kamehameha III and his sister, I assume, Nahienaena. Again, the explanation falls prey to a Western bias by suggesting that this liaison was in some way indicative of the King's poor moral character. No mention is made of the fact that the relationship of two high ranking siblings was the most perfect union in ancient Hawaiian society, which had only recently been dislodged. The absence of this explanation does more than just mislead the reader. It more likely may add to a conviction that Hawaiians were ignoble savages.

At page 126, mention is made of Kalakaua's successful negotiation of a reciprocity treaty with the United States. Here, it would be interesting to review and contrast the comments of Queen Liliuokalani regarding that Treaty and the motivations of the planters (see also Blount Despatches, Roll 16, interview of Samuel Parker).

Part II, Chapter I continues to compare the Hawaiian Land system with the medieval land system of Europe (pages 163,164,165 and 166). Again, such a comparison leads to an oversimplification and rigid categorization of the intricate Hawaiian land system.

The pat resolution of the problems inherent in settling title to Kuleana lands contained on page 171 is useless. The suggestion is that the problems are easily solved--which is hardly true. If no reasonable resolutions can be suggested, the section is better left out altogether.

The statement that Hawaiian waters are treated the same as in U.S. law is not only misleading but false. It's difficult to see how that conclusion was reached in view of Hawaiian case law (see John Chinen, Native Hawaiian Rights) and the rights known as Native Hawaiian tenant rights.

The discussion of adverse possession contained on page 172 ignores the historical reasons for development of this legal concept; the desire of large landholders, especially those holding plantations, simply wished to increase their holdings by engulfing and ingesting the smaller plots of lands owned by the Hawaiians. Adverse possession in many ways can be seen as a form of legalized theft.

Genealogical research is important to establishing legal interest in land which may be recognized by courts in Hawaii today. The Draft Report misses the whole point of why this research plays an important role in Hawaiian land claims (see page 172).

Chapter II also contains several references to the role played by Walter Gibson in the Kalakaua era. The contents of pages 177 to 180 indicate that Gibson duped the King and Hawaiians in general with his grandiose schemes of a Pacific empire. If Gibson was in fact ac important a figure, why was his particiption in events ignored in first-hand accounts of the period (Blount Despatches, personal papers of Lorrin Thurston and Castle) and in Russ? I seriously question this interpretation of history and the emphasis placed upon Gibson's influence with the Monarchy. Further, at page 181 the report states that King Kalakaua and Celso C. Morena plotted to throw out or kill planter sympathizers and foreign interest groups. I find this assertion nothing less than incredible. It is difficult to believe King Kalakaua capable of such intrigue and scheming. Again, the absence of a footnote here makes it an extremely suspicious bit of information.

The next questionable conclusion is found on page 814 where the report indicates that the spark that ignited the annexationists was the signing of a bill to regulate the sale of opium and a bill to establish a lottery. How simplistic an explanation for a series of treasonous actions by a group of foreigners. In view of the fact that there are numerous personal papers attesting to the fact that there was strong support for the overthrow of the Monarchy long before the actual event, it is difficult to believe that so much emphasis in the draft report is placed upon the opium and lottery bills. It seems that the desires of Thurston and his business cohorts were well known in the United States. On December 20, 1893, Admiral Skerrett (Acting Pacific Squadron Commander in April 1894) had a conversation with Navy Secretary Tracy, who, in answer to a question regarding U.S. interests in Hawaii, said: "Commodore, the wishes of the Government have changed. They will be very glad to annex Hawaii." (Blount Despatches, Roll 15). Thus, not only was an overthrow of the Monarch thought imminent, but so was annexation. The opium and lottery bills were merely used as excuses by the annexationists to bring down the Monarchy.

It is interesting to note here that evidently the objections to the lottery bill did not arise from any sense of moral outrage at this form of legalised gambling but from the fact that the lottery would provide the Queen with an independent source of revenue over which the business interests had no control. If the Queen did not have to rely on the business community for loans, their control over the government would be drastically decreased. They clearly could not let that happen (see interview of S.E. Bishop by Blount, Despatches, Roll 16, April 14, 1893).

The description of the overthrow of the Monarchy beginning at page 188 of the report suggests that the U.S. distanced itself from the events. That the U.S. was involved in the overthrow of the Monarchy is quite clear. How is it possible to disavow the actions of our representative Consular Stevens as well as those of Secretary of State Blaine and later Secretary Foster, Navy Secretary Tracy, Captain Wiltse and a host of others? Representatives of the U.S. government were involved at each point along the road from the demise of the Monarchy to annexation. Commenting on the overthrow, Senator William Lindsay aptly pointed out in 1898, "anybody can overturn a government if somebody else is going to be there to preserve public order whilst the government is being overturned." (Russ quoting from Congressional Record 55 Congress, Second Session, page 6672, July 5, 1898). That somebody else Senator Lindsay referred to was the United States. Again, the U.S. can hardly have disassociated itself with the events in Hawaii when Secretary of State Foster disavowed the action Stevens had taken to establish a protectorate. As one newspaper the St. Louis Republic so aptly said, "Secretary of State Foster's pretended rebuke to Minister Stevens for exceeding his authority in establishing a protectorate over Hawaii is equivalent to the verdict of guilty but go on doing it." (quoted in the N.Y. Post, February 23, 1893). How can the United States in all truth claim no responsibility for the overthrow of the Kingdom of Hawaii by merely pointing to the written disavowals of the actions taken by its representatives? In the case of U.S. actions in Hawaii, these actions speak louder than words.

The statement that Minister Stevens' role in the overthrow was "controversial" is an understatement of the truth (at page 192 of Draft Report). I fail to see how Stevens role in the whole matter can be so trivialized. Stevens wrote voluminous letters to then Secretary of State Blaine about the situation in Hawaii prior to the overthrow. His vigorous support of the annexationists is evidenced by his behavior toward both Kalakaua and Liliuokalani, (Stevens gave both lectures on their duties, all the while praising the American form of government) as well as his frequent articles advocating annexation in the Kennebec Journal of which he had formerly been editor. (Before her death, Stevens' daughter had actively sought out names for an annexation petition.)

In addition to minimizing the role of Stevens, the Draft Report also attempts to lessen the importance of the U.S. show of force in support of the revolutionaries. In point of fact, the warship Boston was one of a handful of steel hulled protected cruisers, part of the fledgling U.S. Navy. On board was considerable fire power. The offensive battery on board the Boston included two 8" breach loading rifle guns and six 6" breach loading guns. All of this weaponry we constructed of steel. The secondary battery, designed for defense included two 6-pounder rapid fire guns, two 3-pounder rapid guns, two 1-pounder rapid fire guns, two 47 millimeter Hotchkiss revolving guns, two 37 millimeter Hotchkiss revolving guns and two 45 caliber Gatling guns. Though fighting ranges of the Boston battery were short by present day standards, there can be little doubt that the commander of the Boston could have fired upon the City of Honolulu with little chance of sustaining any damage to his own vessel. The fact that the royalist forces were armed with two Gatling guns and Springfield rifles was no threat to the Boston nor its well-trained crew. The theoretical

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range of the Boston was 1000 to 1600 yards. The range would probably have been greater in Honolulu since the Boston would have been firing offshore at stationary targets onshore with no need for defensive tactics. Besides this formidable battery array on board the Boston, the Pacific Squadron Commander had at his disposal an impressive though admittedly small naval force consisting of the Philadelphia (sister ship to the Boston), the Monterey (mainly a harbor defense ship), the Yorktown (a gunboat), the Ranger (an iron gunboat equipped with civil war artillery), and three wooden gunboats (the Adams, the Alliance, and the Mohican). These ships were operating in the area between Hawaii and the West Coast and could have provided assistance to the Boston if necessary (information from the Office Naval of Naval History, Ship Histories Branch, U.S.N.).

At 3 o'clock the day prior to his recognition of the not yet formed Provisional Government, Minister Stevens ordered the landing of troops from the Boston. Stevens' order to Captain Wiltse, Commander of the Boston said in part:

> In view of the existing critical circumstances in Honolulu, indicating an inadequate legal force, I request you to land Marines and sailors from the ship under your command for the protection of the United States legation and the United States Consulate, and to secure the safety of American life and property. (House Ex. Doc. 48, 53 Congress 2 Session, page 487).

Landed at 5'o clock on Monday, January 16, 1893, was a company of men consisting of the following:

Landed in Honolulu

1/16	3 companies of blue jackets	108
	1 company of Marines (2 music)	32
	Music for battalion	12
	Officers (9 naval) (1 marine)	10
		162

Extra Landed

1/15	for Boston	2	
2/16	for Boston	1	
3/15	Marine guard	1	
3/17	Comp. Boen	14	18
		18	180

Returned on Board

1/27	men	3
1/30	men	1
2/3	Lt. Long's Co.	35
2/3	officers	2
2/23	men	2
		43

(Blount Despatches, Roll 16)

Commenting on the landing, Mr. F. Wunderburg said there was a "landing of a formidable armed force with Gatling guns, evidently fully prepared to remain onshore for an indefinite length of time, as the men were supplied with double cartridge belts filled with ammunition, also haversacks and canteens and were attended by a hospital corps with stretchers and medical supplies." (Statment of F. Wunderburg submitted to Commissioner Blount, Despatches, Roll 15). At the disposal of the revolutionaries, who would later form the Provisional Government, was an arsenal of 400 to 500 Springfield rifles (most likely these were the 1873 Springfield model which replaced the Civil War one-shot variety). A German national, Mr. Ziegler and volunteers marched to the government building and joined the American Marine force. According to Mr. M.M. Scott, most with Ziegler had belonged to the movement of 1887 (which forced the acceptance of bayonet constitution). "They were well drilled men and splendid shots." (M.M. Scott statement, Blount Despatches, Roll 16). Against this formidable force was the Queen's own force of at most 500 men armed with rifles and 10 Gatling guns. I fail to see how resistance on the part of the government would not have been overcome. Certainly, the government could not have overcome any attack by the Bostons' offensive battery. There had never been any indication that such formidable power would not be used by the Boston. Thus, the statement of Dr. William Alexander on page 194-195 is hardly unbiased. The Royalists could see they were overpowered by the superior force of the United States. The report seems to suggest that the refusal to fight indicates a certain cowardice on the part of the Royalists. I cannot agree.

In the face of this evidence of force, I would agree instead with a statment made by Blount to Secretary of State Gresham. "As a class American citizens here have been the most active dethroning the Queen, and are acting in maintaining the existing government. If they are thus to participate in the affairs of these islands, and when force is used to suppress such movements on their part, the forces of the United States are to be called in to protect their persons and property, it does seem that our Government encourages them to lawlessness, and its good faith is impugned. My present impression is that the existing Government owes its being and its maintenance to this perverted influence." Later in the same despatch he states, "The protection of the persons and property of American citizens here has come to mean aid to or enforcement of the laws whenever force is used against the existing authority. It may be used to create a new Government and maintain it." (emphasis in the original) (Blount letter to Secretary of State Gresham, Despatches, Roll 15).

On February 14, 1893, less than a month from the actual revolution, five delegates of the Provisional Government had signed a document with the U.S. Secretary of State John W. Foster to annex Hawaii to the United States. The views of the new Provisional Government as to the disenfranchisement of the Native Hawaiian population prevailed when Secretary Foster dissuaded President Harrison from inserting a clause in the Treaty providing for an annexation plebiscite in Hawaii. This request stemmed from the Chief Executive's desire to give the transaction the 'semblance of having been the universal will of the people.' (Osborne at page 2)

The conclusion of the Draft Report that the truth of what happened in Hawaii "lies somewhere between the two reports;" the Blount Report and the Morgan Report is too neat a wrap-up of the inconsistencies between the reports. The report directs the focus away from U.S. involvement in the revolution and the establishment of the Provisional Government by making this assertion. The weight of the evidence is too much in favor of the Blount Report to suggest that the middle road provides the real truth regarding the extent of U.S. involvement.

Beyond the Blount Report and the Morgan Report is the larger picture of the atmosphere of conflicting political philosophies that emerged as a result of the Hawaiian revolution and annexation. The question dividing the American public as evidenced by the flurry of news articles was: Should the U.S. expand its territories beyond its continental boundaries or was our geographic growth now complete? The imperialist-anti-imperialist conflict that was to dominate the Philippine annexation following the Spanish-American War in truth of fact had its beginnings in the debate surrounding the Hawaiian revolution and annexation. The same issues that characterized the Philippine annexation had already been raised with respect to the Hawaiian revolution and annexation (Osborne, Empire Can Wait, American Opposition to Hawaiian Annexation).

The fact that a joint resolution had to be used instead of a treaty reflects the fact that this anti-imperialist debate had weakened support for annexation of Hawaii. It wasn't so much expediency that required a joint resolution in Congress as the fact that many Americans and their representatives did not support the annexation of a country whose government had been established and maintained with U.S. military force. For many, the whole series of events in Hawaii smacked of the colonialism against which Americans had rebelled in the previous century.

A final small point should be raised regarding the role of Lorrin Thurston and the other revolutionaries. At page 208, revolutionaries for one purpose were treated as Americans when the American troops were landed and yet, at other times, referred to as "Native Whites" (page 208). The revolutionaries were either one or the other, not both. Treatment of the revolutionaries by the U.S. government changed depending upon the circumstance. Such an inconsistency should be noted and not lightly excused.

The Draft Report concludes that sovereignty is not a compensable right, citing case law developed from claims of Native American Indians. I believe such a conclusion is not necessarily correct and is overly restrictive; . I would recommend a reconsideration of this particular conclusion.

Even if Indian case law provides no precedent for claims based upon loss of sovereignty, American diplomatic history provides precedent for compensation in the case of the payment of funds to Columbia by the U.S. to compensate for U.S. involvement in the 1903 Panama Revolution.

The parallels between the Hawaiian situation and the Panamanian revolution are worth studying. Influential newspapermen and businessmen in Panama organized a conspiracy to overthrow the Columbian authority. The conspiracy involving both the U.S. and private citizens is well-known. Reflecting the jingoism of the era, President Roosevelt said, "I should be delighted if Panama were an independent state; or if it made itself so at this moment."

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"When the uprising occurred, by a happy 'coincidence' United States naval units and marines had just arrived at both the Atlantic and Pacific sides of the isthmus. The U.S. consul in Panama was told and advised Washington of the very hour in which the revolution was scheduled to begin! When the Columbian government attempted to send forces to deal with the revolt, naval units first blocked, then hampered and delayed their disembarkation at Colon, and U.S. marines were landed under orders to prevent any Colombian troops from approaching within fifty miles of Panama City. Washington justified these actions by citing the Bidlack-Mallorino Treaty of 1846 whereby the United States claimed the right to protect North American property (the Panama Railroad) against local disturbances on the isthmus.

Mr. Roosevelt had considered invoking the 1846 treaty before the Panama Revolution occurred. He and Hay corresponded in September about the feasibility of occupying the entire isthmus and finishing the canal without any further diplomacy with anybody. But such an act of naked imperialism seemed risky with the presidential election of 1904 so close. The device of inspiring a revolt on the isthmus had much more finesse. The fact that a strong revolutionary spirit already existed in Panama was a happy coincidence indeed." (The Isthmian Canal, p. 60.)

Later, when President Woodrow Wilson took office, a convention with Columbia recognizing U.S. wrongdoing in the 1903 Panama Revolution was negotiated and the U.S. agreed to pay $25,000,000 for the release of all claims. The language of the convention was unprecedented in our history and reflected the sincere desires of the U.S. to right its actions provoking the 1903 revolution. (See "Backgournd Documents Relating to the Panama Canal," Committee on Foreign Relations, 95th Congress, First Session, "A Chronology of Events Relating to Panama Canal," Committee on Foreign Relations, 95th Congress, First Session.)

Further study of U.S. invlovement in the 1903 Panama Revolution will undoubtedy reveal more similarities between the U.S. actions in Hawaii and those in Panama. The difference between the two revolutions was that only in one situation, that involving Panama, was the U.S. forced to mollify a disgrunted nation, Columbia. In Hawaii, none of the other nations (Britain, France, Japan) with representatives in the islands had any real bone to pick with the United States. The United States had a free rein to act as it pleased. As Secretary for Foreign Relations Samuel Parker said to Commissioner Blount, the diplomatic

corps in Hawaii, Woodhouse (British), Carnevera (Portuguese), Vezanena (French) and Fujii (Japanese), all counseled the Hawaiian Kingdom "not to resist" (emphasis in the original Blount Despatches, Roll 16).

Finally, the comparison of the annexation of Hawaii and the admission of Texas as a state is flawed. (See pp. 207-208.) Texas was an area heavily populated by U.S. citizens, many of whom voted in three referendums on the matter of admission to the Union. Precise information on the number of U.S. citizens in Texas voting for admission is not known. However, there is some basis for the belief that U.S. citizens in fact constituted the majority of voters in the Texas referendums. (Information from Texas Historical Society, Anders Saustrup.) This contrasts sharply with the situation in Hawaii where the majority of the indigenous population was disenfranchised and the provisional government and later the Republic was run by a minority of U.S. citizens and other foreign nationals who often expressed the fear that the Hawaiians would ruin the stability of the new government if given the vote. Remember, President Harrison, himself in favor of annexation, had to be dissuaded from putting the question of annexation to a vote by the people in Hawaii. Another difference between the annexing of Hawaii and the admission of Texas lies in the debate surrounding both the events. As was pointed out earlier, the U.S. had long held a policy of expansion within its continental boundaries. Such a policy was seen as a natural expansion of the nation. Thus, the admission of Texas was consistent with past U.S. policy. Annexation of Hawaii, on the other hand, was seen as a departure from this long held policy, one which presaged the imperialist posture the U.S. was to take at the turn of the century. The comparison of Hawaii and Texas is too pat an explanation for wholly different situations and only serves to mislead and confuse the history of the era.

The task of the Native Hawaiian Study Commission is one I take very seriously. Historical accuracy and detail are extremely important to this task. The Draft Report in many cases does not fulfill the requirements necessary to meet this end. I have attempted to point out the flaws that I

have found most glaring. There are others which will become more apparent with the Commission's further study of the events culminating in the annexation of Hawaii by the United States. A full and unbiased airing of these events needs to be made. Without it, the Congressional mandate of the Commission cannot be carried out. I recommend that the Commission not ignore that mandate.

Sincerely,

Daniel K. Akaka

DANIEL K. AKAKA
Member of Congress

APPENDIX

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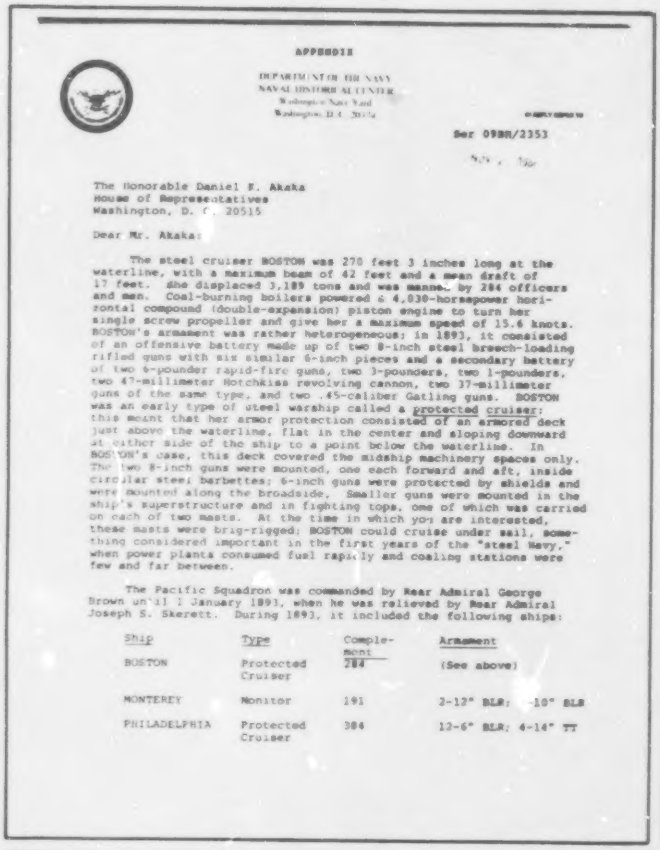


APPENDIX

DEPARTMENT OF THE NAVY
NAVAL HISTORICAL CENTER
Washington Navy Yard
Washington, D.C. 20374

Ser 09BH/2353

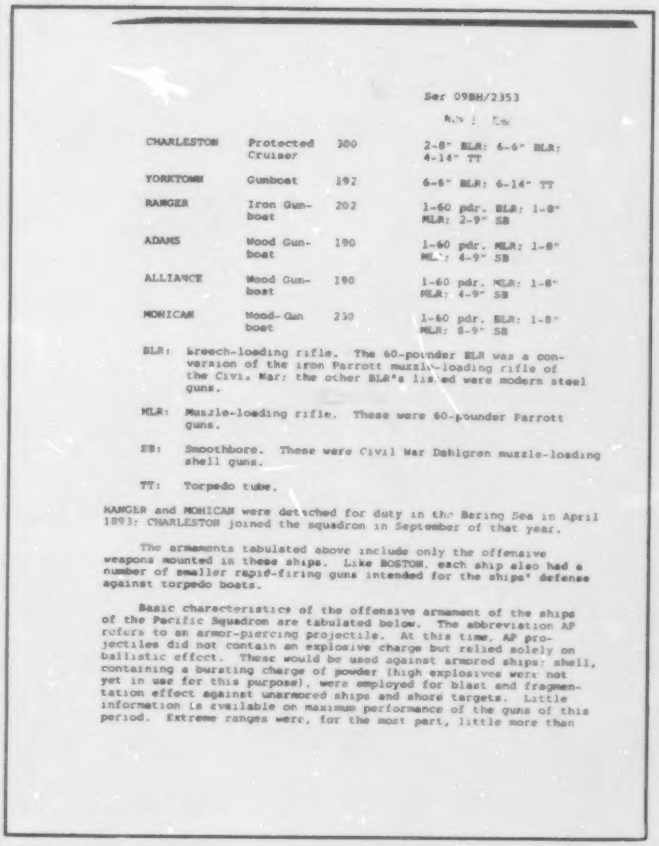
The Honorable Daniel K. Akaka
House of Representatives
Washington, D. C. 20515

Dear Mr. Akaka:

The steel cruiser BOSTON was 270 feet 3 inches long at the waterline, with a maximum beam of 42 feet and a mean draft of 17 feet. She displaced 3,189 tons and was manned by 284 officers and men. Coal-burning boilers powered a 4,030-horsepower horizontal compound (double-expansion) piston engine to turn her single screw propeller and give her a maximum speed of 15.6 knots. BOSTON's armament was rather heterogeneous; in 1893, it consisted of an offensive battery made up of two 8-inch steel breech-loading rifled guns with six similar 6-inch pieces and a secondary battery of two 6-pounder rapid-fire guns, two 3-pounders, two 1-pounders, two 47-millimeter Hotchkiss revolving cannon, two 37-millimeter guns of the same type, and two .45-caliber Gatling guns. BOSTON was an early type of steel warship called a protected cruiser: this meant that her armor protection consisted of an armored deck just above the waterline, flat in the center and sloping downward at either side of the ship to a point below the waterline. In BOSTON's case, this deck covered the midship machinery spaces only. The two 8-inch guns were mounted, one each forward and aft, inside circular steel barbettes; 6-inch guns were protected by shields and were mounted along the broadside. Smaller guns were mounted in the ship's superstructure and in fighting tops, one of which was carried on each of two masts. At the time in which you are interested, these masts were brig-rigged; BOSTON could cruise under sail, something considered important in the first years of the "steel Navy," when power plants consumed fuel rapidly and coaling stations were few and far between.

The Pacific Squadron was commanded by Rear Admiral George Brown until 1 January 1893, when he was relieved by Rear Admiral Joseph S. Skerett. During 1893, it included the following ships:

Ship	Type	Complement	Armament
BOSTON	Protected Cruiser	284	(See above)
MONTEREY	Monitor	191	2-12" BLR; -10" BLR
PHILADELPHIA	Protected Cruiser	384	12-6" BLR; 4-14" TT



Ser 09BH/2353

Ship	Type	Complement	Armament
CHARLESTON	Protected Cruiser	300	2-8" BLR; 6-6" BLR; 4-14" TT
YORKTOWN	Gunboat	192	6-6" BLR; 6-14" TT
RANGER	Iron Gunboat	202	1-60 pdr. BLR; 1-8" MLR; 2-9" SB
ADAMS	Wood Gunboat	190	1-60 pdr. MLR; 1-8" MLR; 4-9" SB
ALLIANCE	Wood Gunboat	190	1-60 pdr. MLR; 1-8" MLR; 4-9" SB
MOHICAN	Wood-Gunboat	230	1-60 pdr. BLR; 1-8" MLR; 8-9" SB

BLR: Breech-loading rifle. The 60-pounder BLR was a conversion of the iron Parrott muzzle-loading rifle of the Civil War; the other BLR's listed were modern steel guns.

MLR: Muzzle-loading rifle. These were 60-pounder Parrott guns.

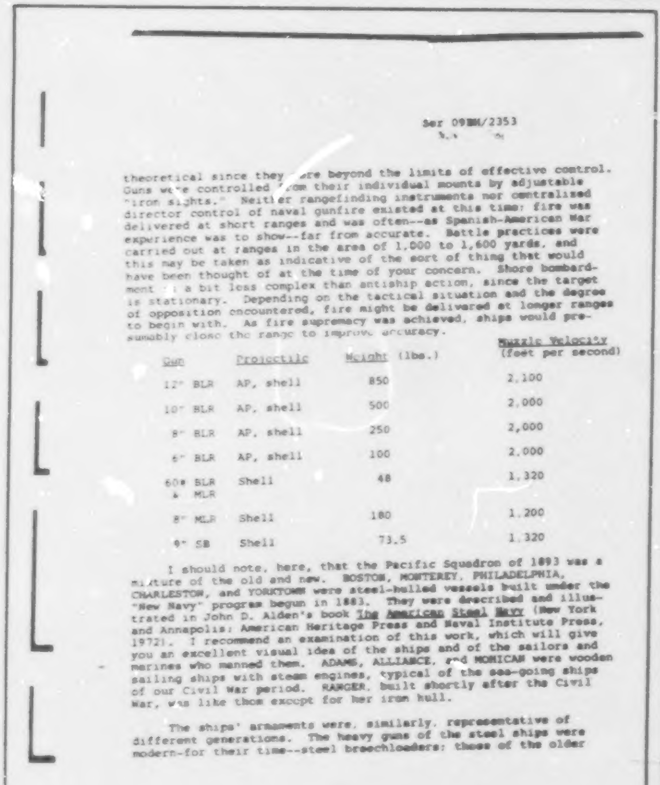
SB: Smoothbore. These were Civil War Dahlgren muzzle-loading shell guns.

TT: Torpedo tube.

RANGER and MOHICAN were detached for duty in the Bering Sea in April 1893; CHARLESTON joined the squadron in September of that year.

The armaments tabulated above include only the offensive weapons mounted in these ships. Like BOSTON, each ship also had a number of smaller rapid-firing guns intended for the ships' defense against torpedo boats.

Basic characteristics of the offensive armament of the ships of the Pacific Squadron are tabulated below. The abbreviation AP refers to an armor-piercing projectile. At this time, AP projectiles did not contain an explosive charge but relied solely on ballistic effect. These would be used against armored ships; shell, containing a bursting charge of powder (high explosives were not yet in use for this purpose), were employed for blast and fragmentation effect against unarmored ships and shore targets. Little information is available on maximum performance of the guns of this period. Extreme ranges were, for the most part, little more than



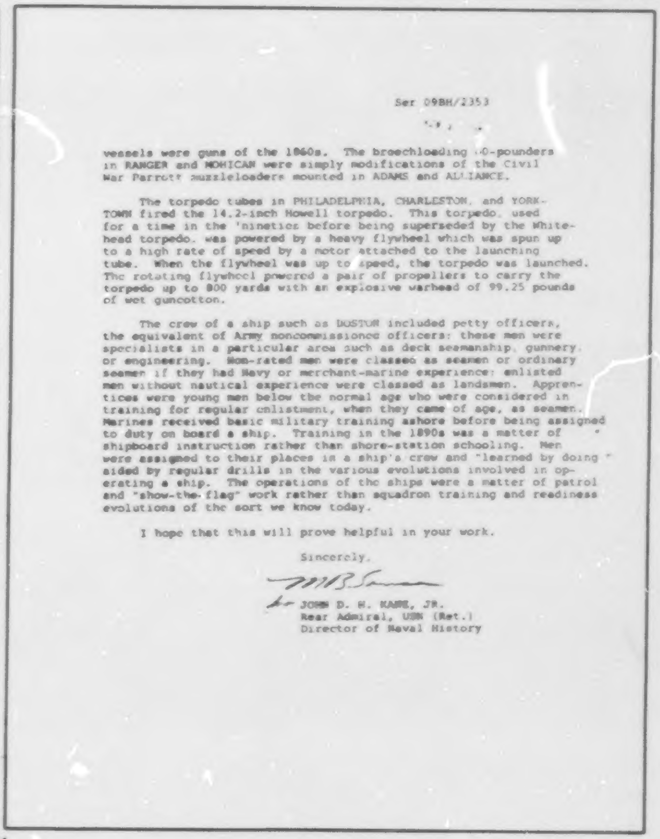
Ser 09BH/2353

theoretical since they were beyond the limits of effective control. Guns were controlled from their individual mounts by adjustable "iron sights." Neither rangefinding instruments nor centralized director control of naval gunfire existed at this time; fire was delivered at short ranges and was often--as Spanish-American War experience was to show--far from accurate. Battle practices were carried out at ranges in the area of 1,000 to 1,600 yards, and this may be taken as indicative of the sort of thing that would have been thought of at the time of your concern. Shore bombardment is a bit less complex than antiship action, since the target is stationary. Depending on the tactical situation and the degree of opposition encountered, fire might be delivered at longer ranges to begin with. As fire supremacy was achieved, ships would presumably close the range to improve accuracy.

Gun	Projectile	Weight (lbs.)	Muzzle Velocity (feet per second)
12" BLR	AP, shell	850	2,100
10" BLR	AP, shell	500	2,000
8" BLR	AP, shell	250	2,000
6" BLR	AP, shell	100	2,000
60# BLR & MLR	Shell	48	1,320
8" MLR	Shell	180	1,200
9" SB	Shell	73.5	1,320

I should note, here, that the Pacific Squadron of 1893 was a mixture of the old and new. BOSTON, MONTEREY, PHILADELPHIA, CHARLESTON, and YORKTOWN were steel-hulled vessels built under the "New Navy" program begun in 1883. They were described and illustrated in John D. Alden's book The American Steel Navy (New York and Annapolis: American Heritage Press and Naval Institute Press, 1972). I recommend an examination of this work, which will give you an excellent visual idea of the ships and of the sailors and marines who manned them. ADAMS, ALLIANCE, and MOHICAN were wooden sailing ships with steam engines, typical of the sea-going ships of our Civil War period. RANGER, built shortly after the Civil War, was like them except for her iron hull.

The ships' armaments were, similarly, representative of different generations. The heavy guns of the steel ships were modern-for their time--steel breechloaders; those of the older



Ser 09BH/2353

vessels were guns of the 1860s. The breechloading 60-pounders in RANGER and MOHICAN were simply modifications of the Civil War Parrott muzzleloaders mounted in ADAMS and ALLIANCE.

The torpedo tubes in PHILADELPHIA, CHARLESTON, and YORKTOWN fired the 14.2-inch Howell torpedo. This torpedo, used for a time in the 'nineties before being superseded by the Whitehead torpedo, was powered by a heavy flywheel which was spun up to a high rate of speed by a motor attached to the launching tube. When the flywheel was up to speed, the torpedo was launched. The rotating flywheel powered a pair of propellers to carry the torpedo up to 800 yards with an explosive warhead of 99.25 pounds of wet guncotton.

The crew of a ship such as BOSTON included petty officers, the equivalent of Army noncommissioned officers; these men were specialists in a particular area such as deck seamanship, gunnery, or engineering. Non-rated men were classed as seamen or ordinary seamen if they had Navy or merchant-marine experience; enlisted men without nautical experience were classed as landsmen. Apprentices were young men below the normal age who were considered in training for regular enlistment, when they came of age, as seamen. Marines received basic military training ashore before being assigned to duty on board a ship. Training in the 1890s was a matter of shipboard instruction rather than shore-station schooling. Men were assigned to their places in a ship's crew and "learned by doing" aided by regular drills in the various evolutions involved in operating a ship. The operations of the ships were a matter of patrol and "show-the-flag" work rather than squadron training and readiness evolutions of the sort we know today.

I hope that this will prove helpful in your work.

Sincerely,

for JOHN D. H. KANE, JR.
Rear Admiral, USN (Ret.)
Director of Naval History

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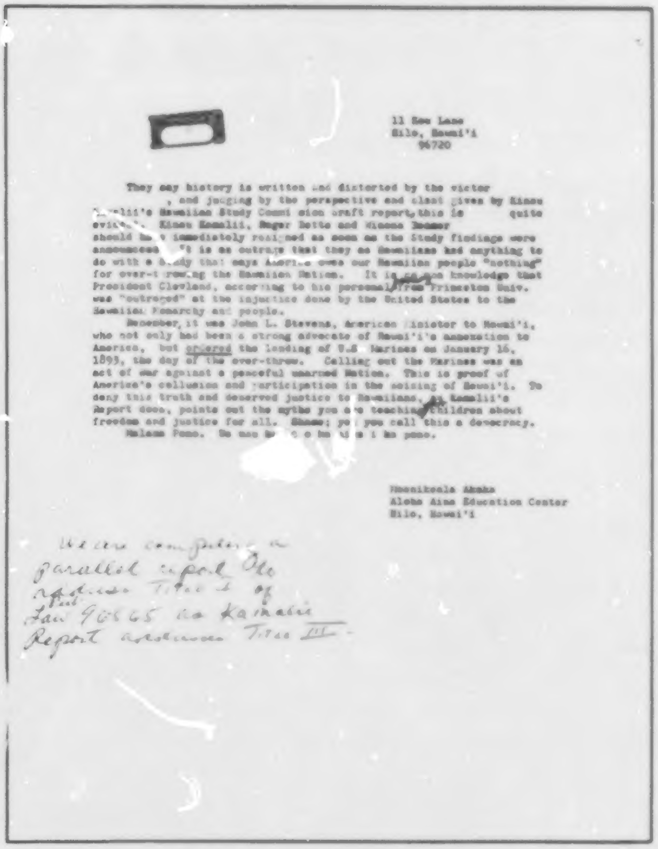


11 Kea Lane
Hilo, Hawai'i
96720

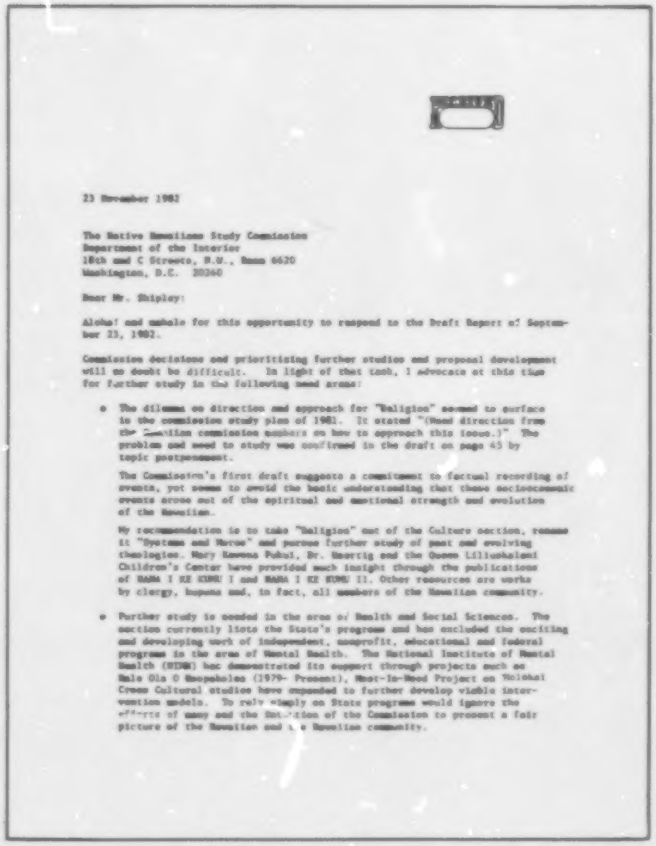
They say history is written and distorted by the victor , and judging by the perspective and slant given by Kinau Kamalii's Hawaiian Study Commission draft report, this is quite evident. Kinau Kamalii, Roger Betts and Winona Rubin should have immediately resigned as soon as the Study findings were announced. It is an outrage that they as Hawaiians had anything to do with a study that says America owes our Hawaiian people "nothing" for over-throwing the Hawaiian Nation. It is common knowledge that President Cleveland, according to his personal from Princeton Univ. was "outraged" at the injustice done by the United States to the Hawaiian Monarchy and people.

Remember, it was John L. Stevens, American Minister to Hawai'i, who not only had been a strong advocate of Hawai'i's annexation to America, but ordered the landing of U.S. Marines on January 16, 1893, the day of the over-throw. Calling out the Marines was an act of war against a peaceful unarmed Nation. This is proof of America's collusion and participation in the seizing of Hawai'i. To deny this truth and deserved justice to Hawaiians, as Kamalii's Report does, points out the myths you are teaching children about freedom and justice for all. Shame; yet you call this a democracy.

Malama Pono. Ua mau ke ea o ka 'aina i ka pono.

Hoonikoala Akaka
Aloha Aina Education Center
Hilo, Hawai'i

We are completing a
parallel report to
address Title I of
Pub.
Law 96565 as Kamalii
Report addresses Title III -



23 November 1982

The Native Hawaiians Study Commission
Department of the Interior
18th and C Streets, N.W., Room 6620
Washington, D.C. 20240

Dear Mr. Shipley:

Aloha! and mahalo for this opportunity to respond to the Draft Report of September 23, 1982.

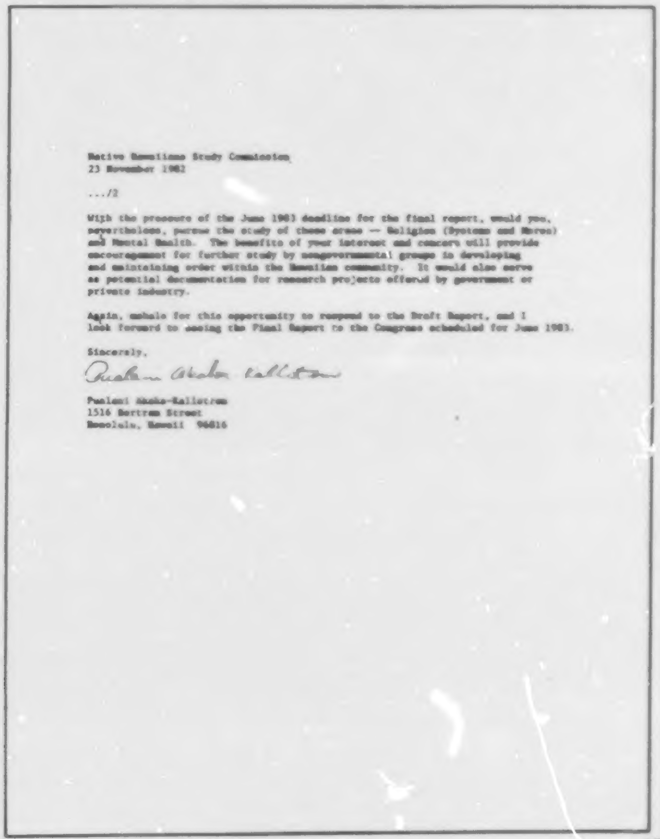
Commission decisions and prioritizing further studies and proposal development will no doubt be difficult. In light of that task, I advocate at this time for further study in the following need areas:

- The dilemma on direction and approach for "Religion" seemed to surface in the commission study plan of 1981. It stated "(Need direction from the Hawaiian commission members on how to approach this issue.)" The problem and need to study was confirmed in the draft on page 43 by topic postponement.

  The Commission's first draft suggests a commitment to factual recording of events, yet seems to avoid the basic understanding that these socioeconomic events arose out of the spiritual and emotional strength and evolution of the Hawaiian.

  My recommendation is to take "Religion" out of the Culture section, rename it "Systems and Mores" and pursue further study of past and evolving theologies. Mary Kawena Pukui, Dr. Haertig and the Queen Liliuokalani Children's Center have provided much insight through the publications of NANA I KE KUMU I and NANA I KE KUMU II. Other resources are works by clergy, kupuna and, in fact, all members of the Hawaiian community.

- Further study is needed in the area of Health and Social Sciences. The section currently lists the State's programs and has excluded the exciting and developing work of independent, nonprofit, educational and federal programs in the area of Mental Health. The National Institute of Mental Health (NIMH) has demonstrated its support through projects such as Hale Ola O Hoopakolea (1979- Present), Root-In-Need Project on Molokai Cross Cultural studies have expanded to further develop viable intervention models. To rely simply on State programs would ignore the efforts of many and the intention of the Commission to present a fair picture of the Hawaiian and the Hawaiian community.



Native Hawaiians Study Commission
23 November 1982

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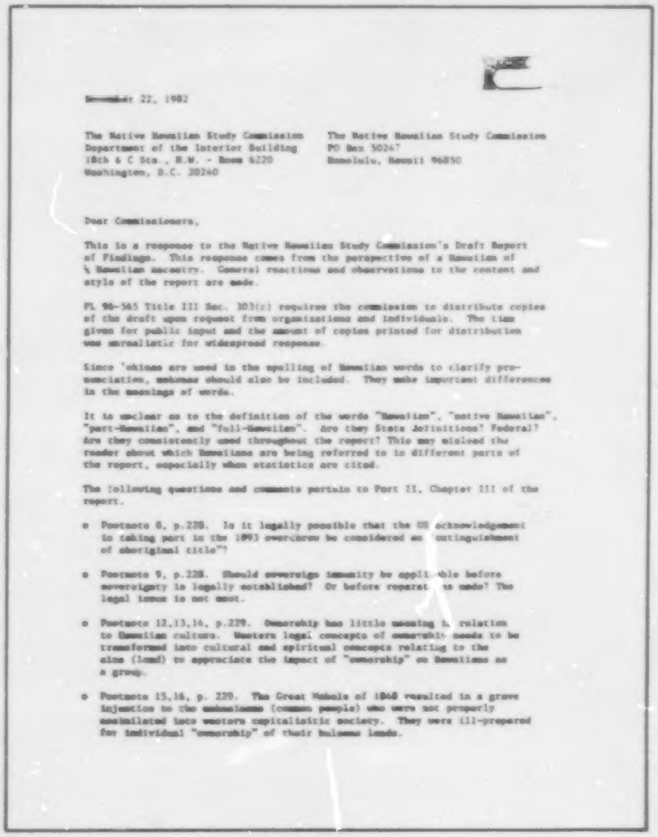
With the pressure of the June 1983 deadline for the final report, would you, nevertheless, pursue the study of these areas — Religion (Systems and Mores) and Mental Health. The benefits of your interest and concern will provide encouragement for further study by nongovernmental groups in developing and maintaining order within the Hawaiian community. It would also serve as potential documentation for research projects offered by government or private industry.

Again, mahalo for this opportunity to respond to the Draft Report, and I look forward to seeing the Final Report to the Congress scheduled for June 1983.

Sincerely,

Pualani Akaka Kallstrom

Pualani Akaka-Kallstrom
1516 Bertram Street
Honolulu, Hawaii 96816



November 22, 1982

The Native Hawaiian Study Commission
Department of the Interior Building
18th & C Sts., N.W. - Room 6220
Washington, D.C. 20240

The Native Hawaiian Study Commission
PO Box 50247
Honolulu, Hawaii 96850

Dear Commissioners,

This is a response to the Native Hawaiian Study Commission's Draft Report of Findings. This response comes from the perspective of a Hawaiian of ¼ Hawaiian ancestry. General reactions and observations to the content and style of the report are made.

PL 96-565 Title III Sec. 303(c) requires the commission to distribute copies of the draft upon request from organizations and individuals. The time given for public input and the amount of copies printed for distribution was unrealistic for widespread response.

Since 'okinas are used in the spelling of Hawaiian words to clarify pronunciation, makonas should also be included. They make important differences in the meanings of words.

It is unclear as to the definition of the words "Hawaiian", "native Hawaiian", "part-Hawaiian", and "full-Hawaiian". Are they State definitions? Federal? Are they consistently used throughout the report? This may mislead the reader about which Hawaiians are being referred to in different parts of the report, especially when statistics are cited.

The following questions and comments pertain to Part II, Chapter III of the report.

- Footnote 8, p.228. Is it legally possible that the US acknowledgement in taking part in the 1893 overthrow be considered an "extinguishment of aboriginal title"?
- Footnote 9, p.228. Should sovereign immunity be applicable before sovereignty is legally established? Or before reparation is made? The legal issue is not moot.
- Footnote 12,13,14, p.229. Ownership has little meaning in relation to Hawaiian culture. Western legal concepts of ownership needs to be transformed into cultural and spiritual concepts relating to the aina (land) to appreciate the impact of "ownership" on Hawaiians as a group.
- Footnote 15,16, p. 229. The Great Mahele of 1848 resulted in a grave injustice to the makaainana (common people) who were not properly assimilated into western capitalistic society. They were ill-prepared for individual "ownership" of their kuleana lands.

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- Footnote 29 is missing on p.265.
- Paragraph 1, p.231. Spelling error, Liliuokalani not Liliuokolani.
- Paragraph 1, p.231. Many assumptions are made as to legal ramifications which are stated as conclusive and not informative.
- Page 233. The final test of aboriginal title, "long use", is concluded on speculation. No legal citation exists in the footnotes about it. Again, the document concludes assumptions that are not legally binding.
- Page 232. Reference to a trust relationship is ironic if taken in a historic perspective. Historic and social events reveal that the Hawaiian people have trusted many Americans and have been betrayed. Their culture has been outlawed, censored, and bastardized and recompense has been inadequate.

The report also notes that no candidate for public office has been helped by appealing to any one ethnic group nor has any one ethnic group held an electoral majority. The report fails to recognize that ethnic bloc voting has had an impact on politics in Hawaii. The AJA (Americans of Japanese Ancestry) population, for instance, was a significant factor in the 1966 Gubernatorial race results (See To Catch A Wave). Also, the number of AJAs in the legislative, judicial, and executive branches of government since statehood has been high in proportion to other ethnic groups represented. Recent developments in the Hawaiian and Filipino communities show a trend toward cultural-political awareness. Moreover, the Caucasians in Hawaii, especially in Waikiki, consistently vote along predominantly white Republican party lines. Ethnicity is a factor in Hawaii political life.

Hawaii's political base has always been centralized on one island. It is unfair to the people on neighboring islands who do not have feasible access to the political processes that directly influence their lives. Many Hawaiians today are isolated on other islands and because of economic restraints, cannot take an active part in the centralized process. Grassroots and homerule movements have been only minimal in affecting issues that need addressing.

The Hawaiian people have been so closely related to the American Indian. Although the American Indian culture is also closely linked to the land, the Hawaiian people are Pacific Islanders, Polynesians. The Hawaiians have a unique identity and their culture should not be underemphasized when used in association with other Native American groups.

The policy of the US Congress that allows them to take away sovereignty of native groups at will is outdated, imperialistic, and inconsistent with post-WWII Pacific Basin policies. There is a historical analogy, if not legal, of the Hawaiian people to that of Third World nations. Third World people have been demanding respect for their individual identity, cultural uniqueness, and ability to govern themselves. This has been a response to colonial and imperialistic practices of the world powers. The US has responded favorably to these demands, considerably so in the Pacific Basin region. The Hawaiian people, on the whole, have assimilated poorly to

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(3)

Western culture. At best it has been a freakish amalgamation of the two cultures. The Hawaiian renaissance, which began in the late 1960s, is evidence of the dissatisfaction with Western norms, and is a cultural phenomenon that has pervaded much of Hawaiian lifestyle...

I feel that a combination of cultural awareness and growth, unsettled legal and moral issues, economic stagnation, and increasing social problems will result in a hardline, maybe desperate, response to the Native Hawaiian Study Commission and the US Congress. I am praying that realistic and just solutions will be worked toward in studying the Hawaiians' concerns. The benefits will be to all of Hawaii Nei.

Sincerely yours,

Herbert Jay (Nohaolelua) Almeida

Herbert Jay (Nohaolelua) Almeida
1617 Keeaumoku Street #1107
Honolulu, Hawaii 96822

Honolulu, Hawaii
January 6, 1983

Kinau Kamalii, Chairman
Native Hawaiian Study Commission
P.O.Box 50247
Honolulu, Hawaii

Dear Madam Chairman:

The article attached herewith by columnist Sam Amalu on page F8 of the Sunday Star Bulletin and Advertiser is a perfect example of why it would be inappropriate for the NHSC to attempt to resolve the issue of royal succession. It is much too complex and controversial an issue for a commission with insufficient time and inadequate background and resources to handle with fairness and sensitivity.

It seems to me that the NHSC should first learn the basics of the subject before even passing judgment on so sensitive an issue.

How can the commission justify allocating the time and resources it takes to insure that its treatment will be truly independent and fair? What are the commissions priorities? And even if a couple of commissioners assume the authority to give their version of "history" they would be responsible to back up any assertions with proof to be fair to all claimants to earn the respect of Congress.

To yield to personal bias and just arbitrarily and capriciously take sides would be irresponsible and a serious insult to native Hawaiians and their culture.

As it stands, the first draft is already overly generous and gallant in its treatment of the Kalakauas..........and undeservedly so! Why such a one-sided interpretation?

And, if I read my Hawaiian history aright, the Kalakaua royal family proper ended with Princess Kaiulani and Queen Liliuokalani.

So, I urge fairness to the Kamehameha clan whose rights have been ignored. They should be credited for so many generations of good works and stability of government.

Therefore I strongly urge fairness in composing the history for the final report. And because the monarchy ended almost a century ago, I feel that any attempt to resolve the issue of royal succession belongs more appropriately in a court of law.

Respectfully,

Mrs. Beatrice Kuliaikanuu Anderson

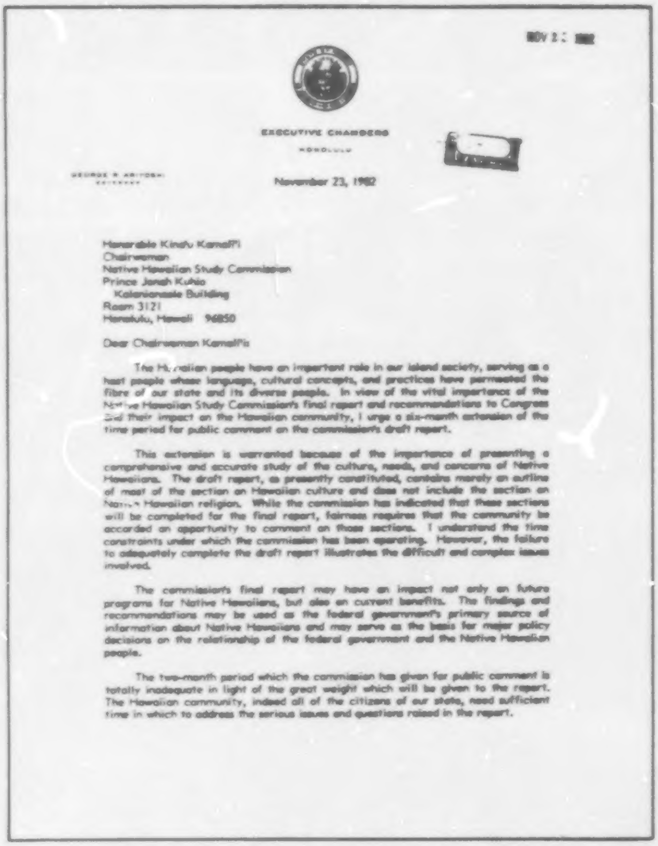
(Mrs.) Beatrice Kulia-ika-Nuu Anderson
46-259 Kahuhipa Street, Apt.2018
Kaneohe, Hawaii 96744

cc: Native Hawaiian Study Commissioners
William French Smith, US Attorney General, Dept of Justice
Daniel Inouye, US Senator
Sparky Matsunaga, US Senator
Cec Heftel, US Representative

Nov 18, 1979

Three families might claim Island throne

The World of Sammy amalu



NOV 2 [illegible] 1982

EXECUTIVE CHAMBERS
HONOLULU

GEORGE R. ARIYOSHI
GOVERNOR

November 23, 1982

Honorable Kinau Kamali'i
Chairwoman
Native Hawaiian Study Commission
Prince Jonah Kuhio
  Kalanianaole Building
Room 3121
Honolulu, Hawaii 96850

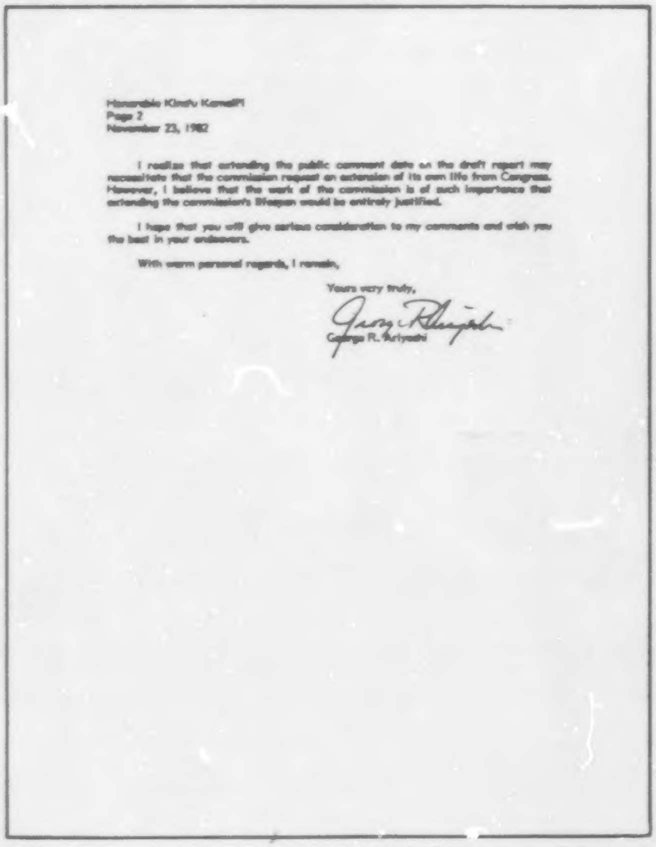
Dear Chairwoman Kamali'i:

The Hawaiian people have an important role in our island society, serving as a host people whose language, cultural concepts, and practices have permeated the fibre of our state and its diverse people. In view of the vital importance of the Native Hawaiian Study Commission's final report and recommendations to Congress and their impact on the Hawaiian community, I urge a six-month extension of the time period for public comment on the commission's draft report.

This extension is warranted because of the importance of presenting a comprehensive and accurate study of the culture, needs, and concerns of Native Hawaiians. The draft report, as presently constituted, contains merely an outline of most of the section on Hawaiian culture and does not include the section on Native Hawaiian religion. While the commission has indicated that these sections will be completed for the final report, fairness requires that the community be accorded an opportunity to comment on those sections. I understand the time constraints under which the commission has been operating. However, the failure to adequately complete the draft report illustrates the difficult and complex issues involved.

The commission's final report may have an impact not only on future programs for Native Hawaiians, but also on current benefits. The findings and recommendations may be used as the federal government's primary source of information about Native Hawaiians and may serve as the basis for major policy decisions on the relationship of the federal government and the Native Hawaiian people.

The two-month period which the commission has given for public comment is totally inadequate in light of the great weight which will be given to the report. The Hawaiian community, indeed all of the citizens of our state, need sufficient time in which to address the serious issues and questions raised in the report.



Honorable Kinau Kamali'i
Page 2
November 23, 1982

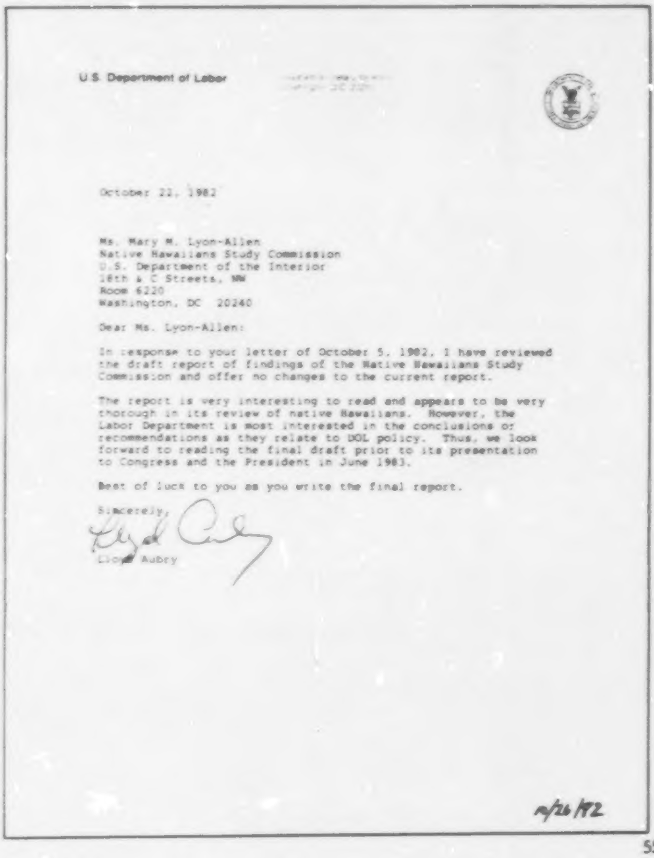
I realize that extending the public comment date on the draft report may necessitate that the commission request an extension of its own life from Congress. However, I believe that the work of the commission is of such importance that extending the commission's lifespan would be entirely justified.

I hope that you will give serious consideration to my comments and wish you the best in your endeavors.

With warm personal regards, I remain,

Yours very truly,

George R. Ariyoshi



U.S. Department of Labor [illegible]

October 22, 1982

Ms. Mary M. Lyon-Allen
Native Hawaiians Study Commission
U.S. Department of the Interior
18th & C Streets, NW
Room 6220
Washington, DC 20240

Dear Ms. Lyon-Allen:

In response to your letter of October 5, 1982, I have reviewed the draft report of findings of the Native Hawaiians Study Commission and offer no changes to the current report.

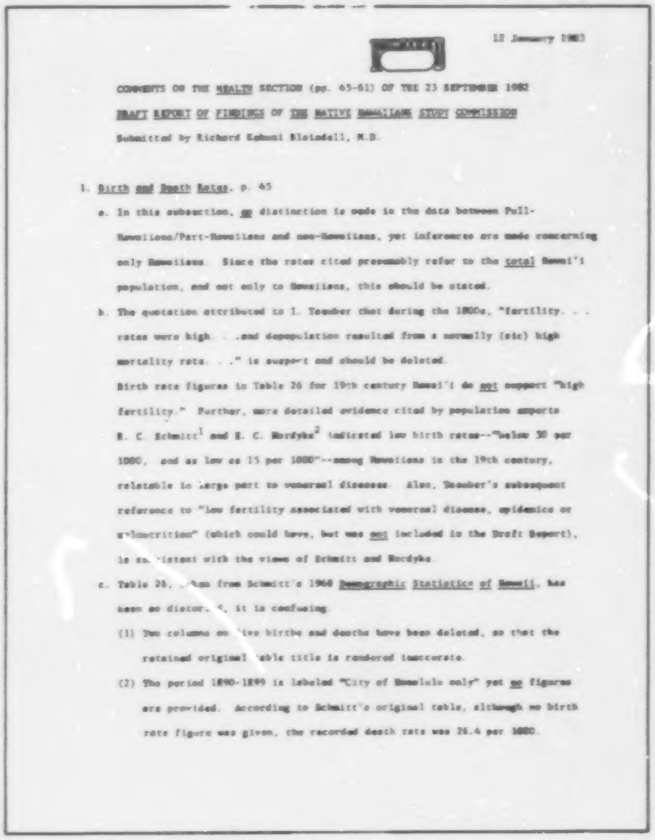
The report is very interesting to read and appears to be very thorough in its review of native Hawaiians. However, the Labor Department is most interested in the conclusions or recommendations as they relate to DOL policy. Thus, we look forward to reading the final draft prior to its presentation to Congress and the President in June 1983.

Best of luck to you as you write the final report.

Sincerely,

Lloyd Aubry

11/26/82



12 January 1983

COMMENTS ON THE HEALTH SECTION (pp. 65-81) OF THE 23 SEPTEMBER 1982

DRAFT REPORT OF FINDINGS OF THE NATIVE HAWAIIANS STUDY COMMISSION

Submitted by Richard Kekuni Blaisdell, M.D.

1. Birth and Death Rates, p. 65
   a. In this subsection, no distinction is made in the data between Full-Hawaiians/Part-Hawaiians and non-Hawaiians, yet inferences are made concerning only Hawaiians. Since the rates cited presumably refer to the total Hawai'i population, and not only to Hawaiians, this should be stated.
   b. The quotation attributed to I. Taeuber that during the 1800s, "fertility. . . rates were high. . .and depopulation resulted from a normally (sic) high mortality rate. . ." is suspect and should be deleted.
      Birth rate figures in Table 26 for 19th century Hawai'i do not support "high fertility." Further, more detailed evidence cited by population experts R. C. Schmitt[1] and E. C. Nordyke[2] indicated low birth rates--"below 30 per 1000, and as low as 15 per 1000"--among Hawaiians in the 19th century, relatable in large part to venereal diseases. Also, Taeuber's subsequent reference to "low fertility associated with venereal disease, epidemics or malnutrition" (which could have, but was not included in the Draft Report), is consistent with the views of Schmitt and Nordyke.
   c. Table 26, taken from Schmitt's 1968 Demographic Statistics of Hawaii, has been so distorted, it is confusing.
      (1) Two columns on live births and deaths have been deleted, so that the retained original table title is rendered inaccurate.
      (2) The period 1890-1899 is labeled "City of Honolulu only" yet no figures are provided. According to Schmitt's original table, although no birth rate figure was given, the recorded death rate was 26.4 per 1000.

(3) Since the table is cited to support the text concerning Hawaiians, there should be a statement that the rates from 1848 to 1884 occurred during a decline in the proportion of Full-Hawaiians from greater than 95% to less than 50% and thereafter to less than 2% in 1965, and during a gradual incline in Part-Hawaiians from less than 2% in 1848 to circa 15% in 1965, with a rapid rise in non-Hawaiians from greater than 50% in 1884 to about 85% of the total island population in 1965.

d. Table 26 figures end with 1965. They should be updated through at least 1981.

2. Infant Mortality, pp. 46-48

a. Table 27, from A. W. Lind, provides rates for a limited period only, 1924-1963. The Department of Health[3] should be able to provide earlier rates and updated figures through at least 1981.

b. P. 47, line 1. The term "fertility rates" is not accurate, as birth rates, not fertility rates, are given.

c. P. 47, paragraph 2, "1890," apparently, should be 1980.

d. Table 28 provides infant mortality rates only for 1980, an atypical year. In 1981, the Department of Health[3] figures were:

All races	7.8 infant deaths per 1000 live births
Hawaiians	16.6
Part-Hawaiians	14.7

Figures for Hawaiians in 1979 were also higher than for 1980. Therefore, the Report's statement that rates for Hawaiians were "lower than for the State as a whole" is misleading.

e. Rates from the earliest years up through at least 1981 should be included so that trends may be perceived.

f. Table 29, p. 48, should also include data beginning with the earliest years through 1981 so that trends may be observed.

3. Life Expectancy, p. 49

a. Table 30 should be updated from 1970 to 1980.

b. Figures for Full-Hawaiian vs. Part-Hawaiian should be sought.

4. Leading Causes of Death, pp. 50-52

a. These data on "causes of death" should be properly titled or described as "death certificate-recorded" or "diagnosed causes of death" since concepts of illness and diagnostic criteria for "diseases" vary with time and recorder.[4]

b. Table 31, p. 50, contains no data on Hawaiians/Part-Hawaiians for comparison with "the Hawaii population as a whole." The Department of Health has such data.[3]

c. Pp. 51-52. Although M. Look's publication is valuable, it provides only graphs, but no figures for comparison, no data on stroke (the third major "cause of death"), no data on the high rate of suicide among Hawaiians, and no data on the high rate of auto deaths in Hawaiians.
Given adequate time, the Department of Health[3] could provide such precise figures on these "causes" for comparison, as it did for an Alu Like report in 1977.[5]

d. P. 51. The information here on cancer in Hawaiians is incomplete. This major class of diseases deserves more attention, as described in 6.d. below.

e. P. 52, paragraph 2. The listed "probable factors" might be modified to read:

Lower income level
Inadequate health care
Different cultural concepts of health and illness
See 12. below for more on causal factors.

6. Acute and Chronic Conditions, pp. 53-55

a. Tables 32 and 33 do not distinguish between Full-Hawaiians and Part-Hawaiians, and show no data other than for the year 1980.

b. According to Department of Health data generated for Alu Like in 1977,[5]

Full-Hawaiians reported higher prevalences, compared to all races, as shown, for the following conditions:

Condition	Full-Hawaiians	All Races
High blood pressure	22.6%	12.2%
Diabetes	14.4	5.3
Arthritis	8.3	5.6
Heart trouble	4.2	2.8
Stroke	1.4	0.7

Part-Hawaiians reported higher rates for the following conditions:

Condition	Part-Hawaiians	All Races
Asthma	17.2%	8.9%
Chronic bronchitis	3.8	1.7

c. P. 55, paragraph 2. "Hawaiian Health Surveillance Program" should be Hawaii Health Surveillance Program.

d. Special emphasis should be given to Hawaiians/Part-Hawaiians as having the highest incidences of cancer of the stomach, esophagus, breast, lung, pancreas, uterus, and the most rapid rate of increase for lung cancer, according to the Hawai'i Tumor Registry and Cancer Center of Hawai'i.[6]

5. The Report contains no data on the highest incidence of coronary atherosclerotic heart disease in Hawaiians/Part-Hawaiians, since the first report by C. C. Bennett et al. in 1962.[7]

6. The Report contains no data on the highest prevalence of end-stage renal disease (kidney failure) in Hawaiians, compiled by Dr. Arnold Siemsen at St. Francis Hospital.[8]

7. The Report contains no data on mental illnesses separately, although some statistics have been tabulated by the Department of Health.[9]

8. The Report contains no data on congenital/inherited disorders, such as the

highest incidence of club-foot among Hawaiians, reported by Dr. C. S. Chung of the University of Hawai'i School of Public Health.[10]

9. The Report contains no data on the highest rates of teen-age pregnancies among Hawaiian girls, as studied by M. Levitt-Marin.[11]

10. The Report contains no data on elderly Hawaiians, such as published by Alu Like, indicating that 75.9% of Hawaiians vs. 66.7% of non-Hawaiians over 65 years of age stated they had major chronic illnesses.[12]

11. The Report contains no data on medical care, such as cited by Alu Like, that 15.7% of Hawaiians over 60 years had no health insurance vs. 9% of non-Hawaiians.[12] Nor does the Report allude to the historical inadequacies of medical care that led to the founding of the Queen's Hospital for Hawaiians in 1859[13] and the Kapi'olani Maternity Home for Hawaiians in 1890[14], after hospitals had been established for non-Hawaiians.

12. The Report contains no account of the causes of ill health in our Hawaiian people --the devastating effect of introduced infections, alcohol, tobacco, drugs, and processed foods on a people whose isolation from the rest of the world for half a century had rendered them uniquely vulnerable; of the overthrow of the kapu and kahuna and 'ohana health educational systems, alienation from the land and a subsistence economy; and replacement by foreign values and practices based on a market economy and private exploitation of natural resources for commercial gain that promoted malnutrition, inanition, despair and self-destruction for the native Hawaiians.[15,16]

13. The Report contains no data on the relative paucity of Hawaiian health professionals, such as currently less than 50 Hawaiian physicians out of about 2000 practicing MDs in the State.[17]

14. The Report so far contains no recommendations. It should include effective proposals for improved systematic collection and analysis of critical health

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data on Hawaiians, as well as specific programs for health education, illness-prevention and medical care, integrated with programs for economic self-sufficience, preservation of Hawaiian culture, and wholesome relationships with nature.[17,18]

When recommendations are forthcoming from the Commission, I hope that there will be better opportunity for input from the Hawaiian community.

15. Apparently, no Hawaiian health professionals have been formally engaged by the Commission in the preparation of the Report.

According to Ms. Linda Delaney,[19] the health section was written by Mary Lynn-Allen, a non-health professional, in the U.S. Department of Interior in Washington, D. C.

As previously suggested,[20] I propose that knowledgeable Hawaiian health persons, such as Dr. George H. Mills, Dr. Benjamin B. C. Young, Dr. Ralph H. Hodges, Dr. Charman J. Akina, and Dr. Emmett Aluli, be invited for this important task of preparing "the most complete compilation of data and information on native Hawaiians," in spite of the late hour.

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HEALTH SECTION OF NATIVE HAWAIIANS STUDY COMMISSION REPORT
Richard Kekuni Blaisdell, M.D.

D R A F T

TABLE OF CONTENTS

Page

I. INTRODUCTION 1
  A. Modern Concepts 1
  B. Historical and Cultural Background 3
    1. Pre-Contact (1778 and Before) 3
    2. Contact (1778 to 1893) 6
    3. Overthrow of the Monarchy to the Present (1893-1983) 14
  C. Health Factors Transforming a People 18
II. HEALTH PROFILE 20
  A. Collection and Recording of Health Data 20
  B. Birth and Death Rates 21
  C. Infant Mortality and Birth Characteristics 23
  D. Life Expectancy 26
  E. Leading Causes of Death 26
  F. Cancer Incidence 28
  G. Acute and Chronic Conditions 30
  H. Mental Health 34
  I. Alcohol Use and Abuse 38
  J. Drug Use and Abuse 38
  K. Elderly Hawaiians 38
  L. Medical Care 38
  M. Health Professionals 38
  N. Summary 41
III. RECOMMENDATIONS 45
IV. SUMMARY 47
V. REFERENCES 49

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I. INTRODUCTION

Understanding the health needs and concerns of native Hawaiians today requires application of modern concepts of sociobiomedicine to critical historical events and unique cultural features.

A. Modern Concepts

The modern view of health or wellness is not freedom from disease or abnormality, because this is not consistent with reality, but rather, the ability of a person or a people to live meaningful lives by adapting within a given, yet constantly changing, environment (1).

The main causal factors accounting for health or illness are three: heredity, "life style," and environment (1). While they are inter-related, it is helpful to consider their relative roles when analyzing specific health indices as presented in this report.

Heredity is determined by genes which a person inherits from his ancestors. Thus, genetic influence may be beyond the control of an already-born person. However, heredity for the yet-to-be-conceived, of course, may be readily influenced by the mating selection of parents-to-be. Life-style usually involves multiple personal choices, such as nutrition; body hygiene; physical activity and rest; coping with mental stress; possible self-abuse, such as with today's tobacco-smoking, alcohol, and harmful drugs; and medical care. Environment includes climate and other natural resources; public sanitation; population density and public behavior, such as current crime, auto casualties and war; and specific diseases agents, such as bacteria and chemicals. While these environmental factors may be beyond individual control, they may be amenable to group action.

Examples of the foregoing causal factors will be cited and discussed in the following sections.

B. Historical and Cultural Background

Critical historical events and unique cultural features influencing the health and illness of native Hawaiians are conveniently considered in three periods: before contact with

the non-Polynesian world; contact, beginning with Captain James Cook in 1778 to the overthrow of the monarchy in 1893; and the end of the kingdom to the present.

1. Pre-contact

a. Health and Illness

Prior to and at the time of arrival of Captain Cook in January 1778, the Hawaiians of old were generally healthy because they had adapted effectively to island ecosystems about them, and they had lived in isolation from the rest of the planet for over 500 years (2).

Gene strength was evident in a flourishing population of an estimated 300,000 at the time of Captain Cook (2). These were descendants of perhaps 100 hardy, first settlers who had arrived more than 1,000 years previously from the south Pacific after braving over 2,000 miles of open sea in double- hulled canoes. Some gene weakness was possible because of the small gene pool, inbreeding, and opportunities for genetic drift (3). These genetic factors could account for congenital-hereditary deformities described below, and for the impaired immunity and peculiar hypersusceptibility to disseminated infections which characterized and later contact period.

The natives' food was mainly taro, sweet potato, yam, breadfruit and banana with fish, and for the maka'āinana (commoners), only infrequently pig and dog. This high-fibre, low-fat, unrefined and limited sugar diet ample in vitamins and abundant in minerals, and now considered superior to the usual fare of modern western societies, but with one important common fault--excessive sodium (4, 5). This is a basis for inferring that the natives of old probably also had some arterial hypertension and related disorders, as shall be discussed later.

Personal, household and public cleanliness of the early Hawaiians are well documented (2, 6) and were strictly controlled by kapu (sacred law) of the kahuna (priests) (6). Physical activity in work and play was

vigorous and enjoyable, and yet with adequate time for sleep and rest (2).

There were no crowding, no public latrines, no garbage heaps or letter, and no use of human or animal excreta as fertiliser. Because of clean air, pure water and unpolluted land and sea, promoted by the kapu, natives unknowingly maintained control of potentially harmful pathogenic microorganisms (6).

They were free of the epidemic, contagious pestilences which scourged the continents in recurring waves for thousands of years. However, the islanders did have some focal infections as evidenced in pre-contact skeletons recovered from burial sand dunes (7, 9). Dental caries, which result from acid-producing mouth bacteria acting on carbohydrate-containing foods, occurred in less than 7% of those under age 40, to 51.5% in persons over the age of 40--frequencies much lower than those observed today (8). Some bone abscesses were also evident, such as in the maxilla or mandible, as extensions from dental pulp infections (9). "Boils" were also described in Cook's journals (2). Thus, the early Hawaiians were not entirely free of pathogenic organisms as some have claimed (10).

Metabolic maladies, so prominent in native Hawaiians today, were probably also present in their ancient ancestors. However, the evidence is largely indirect and their frequencies remain uncertain. The direct evidence is largely indirect and their frequencies remain uncertain. The direct evidence is also to be found in unearthed bones which show examples of gouty arthritis, degenerative arthritis, and rheumatoid arthritis (7, 9). Common soft tissue disorders, such as coronary atherosclerotic heart disease, arterial hypertension, stroke, chronic obstructive lung disease, diabetes mellitus, and end-stage renal disease, are presumed to have occurred in pre-Cook Hawaiians because heredity appears to play some role in these diseases so prevalent in native Hawaiians today (10). However,

since the life style factors of the maka'āinana did not include a high-fat diet, cigarette smoking, physical inactivity, and oppressive stress, the frequencies of these "diseases of civilization" in the early Hawaiians were probably less than today. No signs of nutritional deficiencies, such as rickets and scurvy, are apparent in the osseous materials (7, 9).

Evidence of metastatic cancer to the bony spine has been seen in one pre-contact specimen (7), but no obvious cases of neoplasm were described in Cook's journals.

Trauma from accidents or intentional violence was probably the most common class of ailments, as recorded in writings (2, 8, 10), and as observed in skeletal remains (7, 9). "Poisoning" may have been due more to psychic effects (12) than to direct pharmaceutical toxicity because the pre-contact islands apparently had no lethally poisonous plants (13). The only type of chemical self-abuse known in old Hawai'i was "kava debauchery", described among some ali'i in Cook's journals (2).

Mental illness was described in the form of two natives who were "wrong in their senses" in Cook's journals (2). This single passage contrasts with frequent other references to the islanders being "social, friendly, hospitable, humane," "blessed with frank and cheerful disposition", and "mild and agreeable, not easily excitable" (2), which support the views of subsequent foreigners that the natives were adept at coping with stress (3, 15).

Congenital-hereditary disorders were apparent to Cook's men in a young man "born with neither feet nor hands", another "born blind" and two dwarfs (2). Four cases of club foot were found among the 1,117 pre-contact persons buried at Mokapu (7). The described defects were probably related to inbreeding. The survival of these malformed natives beyond infancy counters the later claims by missionaries that

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infanticide was traditional and widely practiced (14). Cook's journals record the Hawaiians as being "totally unacquainted with [the Tahitians'] horrid custom of destroying their newborn infants" (2). The natives prized physical beauty and practiced body moding of the infant and child (15). Some degree of infanticide of the severely deformed newborn may have been practiced, but there were no illegitimate births in the modern sense, and generally every child was he pua (a flower) to be cherished, assuring continuity of the heritage and race (15).

b. Medical Beliefs and Practices

Health and illness were another example of the all-pervading dualism of the early Hawaiians' belief system, like sky and earth, sun and moon, male and female, mind and body, and life and death (16).

Wellness was maintaining mana, quantifiable energy, that was both inherited and acquired. Proper balance of mana was promoted by harmony with oneself, with others, and with the gods and nature through continuous communication with the spiritual realm and correct thought and action (15).

The kapu (taboo), established by the kahuna (priests), sanctioned by the ali'i, and enforced by all, fostered self-discipline and responsibility in personal hygiene, health-promotion, illness-prevention, public sanitation, and respect for nature, which was the domain of the gods (6, 15).

Illness was loss of mana from dysharmony, such as from violation of a kapu, offending a good, or ill-thinking (15, 17).

The elderly were esteemed. Death after a meaningful life was welcomed as a reuniting with one's ancestors in the eternal spiritual realm and completion of a recurring cycle of rebirth and transfiguration into kinolau (non-human forms) or reincarnation into other human forms (12, 15).

Diagnosis was determining the mechanism of loss of mana through psychospiritual communication, interviewing of the patient and his 'ohana, and physical examination (3, 15, 17).

Treatment was restoring deficient mana through ritualistic communication with the psychospiritual realm of the gods, supplemented by special foods, secretly formulated herbals, physical therapy and limited surgery (3, 15, 17).

Medical care for the commoner was the responsibility of the patient himself, and, if necessary, an experienced 'ohana elder. Only if the illness were serious and expensive professional fees in hogs could be paid, did a maka'āinana engage the fastidious kahuna lapa'au (priest-physician), rigorously trained at the heiau ho'ola (healing temple) (12, 18). The ali'i (chiefs) had regular access to varieties of specialty kahuna lapa'au whose rituals and practices were elaborate and extensive (12, 18, 19).

The Hawaiians' autopsy observations (12), use of the clyster-enema (12, 17), and emetics and cathartics (12, 17, 18) provide evidence of beginning experimentation and scientific reasoning not found elsewhere in Polynesia (20).

This highly-refined, holistic and preventive health system, harmoniously integrated in their social fabric, with nature about them, and their spiritual realm beyond, was never to recover from the fatal impact of western ways.

2. Contact

a. Depopulation

1) Infections

In January 1778, the arrival of the first foreigners, Captain Cook and his seamen, brought medical disaster in the form of the venereal diseases, mainly gonorrhea and syphilis, tuberculosis, other common contagious bacterial and viral illnesses, as well as alcohol, gunfire, and other

forms of disrespect for the kapu, the gods and nature. One year later, in March 1779, when these first visitors departed, the natives could see from the sick and dead about them, that "the sliding way of death" had begun (3, 12, 18, 19).

In 1804, the diarrheal epidemic of ma'i oku'u (probably cholera or typhoid) killed perhaps 15,000 (21), and convinced Kamehameha the Great that the gods did not favor his military invasion of the island of Kaua'i (3).

Subsequent sporadic "catarrhs and fevers" took other lives, so that by 1820, when the first missionaries landed, the population estimate of 150,000 was half that at the time of Cook, about 40 years previously (14, 26).

In 1824, Kamehameha II and his sister-wife Queen Kamāmalu died of measles in London (3).

In 1824-26 and again in 1832, epidemics of cough (?whooping) and measles killed thousands of natives (3).

In 1839, mumps killed "great numbers" including Kina'u, kuhina nui (regent), daughter of Kamehameha the Great, and mother of Kamehameha IV and V (3).

In 1845-49, epidemics of measles and pertussis and then diarrhea and influenza left over 12,000 dead (3).

In 1840, the first case of leprosy in a Hawaiian was detected (30). In 1865, because of the alarming spread of this fearsome malady, a new segregation law established a receiving leprosy hospital in Honolulu and isolation of lepers on the Kalaupapa peninsula of the island of Moloka'i (23, 24). One out of every 38 (2.6%) of native Hawaiians was affected, whereas the occurrence in non-Hawaiians was 1 in 1847 (27). A peak of 1,310 active cases was reached at the end of the century,

and over the 40 years since the start of segregation, an estimated 4,000 natives died of this affliction (24).

In 1853, 1861, 1873, and again in 1882, smallpox took over 7,000 lives, in spite of compulsory smallpox vaccination in 1854 (3).

In 1857, an epidemic of colds, headache, sore throat and deafness (?influenza) raged (3).

In 1866, cough, chills, fever, vomiting, nose bleeding and disability (?dengue) affected hundreds.

In 1878-80, whooping cough brought death to 68 in Honolulu (3).

In 1888, whooping cough struck again with 104 lives, and in 1890 diphtheria (3).

In 1889-90, measles and dysentery killed 26 (3).

By the time of the overthrow of the monarchy in 1893, the native Hawaiian population was reduced by 87% to about 40,000 (26).

2) Lack of Immunity, Genetic and Other Factors

Multiple factors probably accounted for the steep logarithmic decline in the population of pure Hawaiian (3, 27). Introduced infections, as cited above, in a people who lacked immunity because of their long isolation, not only explained high and irregular direct mortality, but could also explain the decreased birth rate. Local, genital, venereal and other infections, and general, systemic infections probably impaired fertility in both men and women, increased early and late fetal deaths in utero, and contributed to neonatal and infant mortality, through indirect general debility and malnutrition (27, 52).

Latent genetic defects could have predisposed to reduced birth rates (28), and probably account for the natives' hypersusceptibility to chronic infections, aside from impaired immune mechanisms, such as in leprosy and tuberculosis (29).

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Other chronic metabolic illnesses, not readily specifically diagnosable, especially among the maka'āinana, but related largely to conflicting life styles, were probably also taking their toll. These disorders include arterial hypertension, atherosclerosis, heart, kidney and lung failure, stroke, and diabetes, so prevalent among modern Hawaiians (10, 59).

Among the ali'i, these terminal illnesses were identified as follows: In 1854 Kamehameha III died at age 42 of convulsions and delirium that could have been a stroke; in 1863 Kamehameha IV died with asthma at the age of 29; in 1872, at the age of 42, Kamehameha V succumbed of "buttock abscess, dropsy and asphyxia"; in 1883, Princess Ke'elikolani died at age 57 of heart failure; in 1884, Queen Emma died of stroke at the age of 49; and in 1891, King Kalākaua died at the age of 54 of "Bright's disease" (kidney failure) (25).

3) Despair

Cultural conflict resulted in disintegration of the old social order. In 1819, despairing because the kapu were no longer effective, the Hawaiians themselves under the leadership of Kamehameha II, Queen Ka'ahumanu, Queen Keōpūolani and High Priest Hewahewa, formally abolished these strict sacred laws which governed personal hygiene and public sanitation (27). Gross pollution of person, home, the land and water followed, as described and decried by the missionaries and other foreigners (30). There was decline of ali'i leadership and stewardship as the chiefs sought material luxury by exploitation of the maka'āinana in sandalwood and other trade with foreigners (3, 31). With alienation from the land came disruption of the 'ohana and replacement of their traditional self-reliant, 'ahupua'a (regional) subsistence economy by an urban market economy. The kahuna and 'ohana educational

systems disintegrated. New social ills emerged, such as alcoholism, tobaccoism, vagrancy, prostitution, and the malnutrition of processed foods. Finally, there was the perception by the Hawaiians, preached by the missionaries, of the "superiority" of certain western ways and material culture, compared to native "primitive" beliefs and practices. The stress was too overwhelming for many islanders. Some fled, like an estimated 5,000 out-migrating Hawaiians in 1850. Others despaired inwardly, lost their will to live in a haole-dominated new order which made them strangers in their homeland, as they sought the comfort of death (3, 27, 31).

b. Inadequacy of Traditional Native Medicine for Haole Illnesses

In this period of culture shock, there evolved a makeshift, loose health care system for native Hawaiians with the following characteristics.

Although the major gods had been toppled, and the kahuna hierarchy abolished, the kahuna lapa'au remained underground. These officially disenfranchised kahuna, plus experienced 'ohana elders, and the patient himself, continued to care for "Hawaiian illnesses" as of yore, but with some modifications (27).

Newly introduced plants, such as the guava and eucalyptus, were incorporated into the native materia medica. Some western notions of disease and the pharmaceutical action of herbals on body functions were adopted, therapeutic effects that were not mediated by the traditional native concept of restoration of mana. However, there was still some reliance on 'aumākua or family guardians, although the senior gods had departed (32). As the heiau ho'ola, as well as the other heiau were destroyed, formal training of kahuna ceased. They were replaced by more self-styled, poorly-trained or untrained "kahuna", many of whom incurred the

denunciation of missionaries, other foreigners, and even some Hawaiians (30).

"Hawaiian medicine for Hawaiian disease" probably survived because at that time, non-Hawaiian medicine was no more effective. Psycho-spiritual aspects of native medical care merged with new beliefs, such as Christianity, sometimes confusingly so, or were abandoned so that little of the old liturgy found its way into print when the natives learned how to write (32).

Haole illnesses, such as gonorrhea, syphilis, cholera, diphtheria, measles, mumps, smallpox, and tuberculosis, did not respond to Hawaiian medicine, and since there were too few haole physicians initially to demonstrate that haole medicine was no better, some natives tried whatever was called haole medicine (27).

c. Ascent of Haole Medicine

Haole surgery, however, was perceived as generally superior, with metal instruments, instead of bamboo or adzes, for resections, incision and drainage of abscesses, and the techniques of suturing and ligature to arrest bleeding and promote wound healing (21, 30).

Western public health measures replaced the old kapu system, but initially they, too, did not seem any more effective against the devastating contagious epidemics.

In 1836, Kuhina Nui Kina'u was advised to issue the first public health proclamation--the Honolulu harbor pilot was instructed to screen all foreign- arriving vessels for smallpox and other pestilences (3).

In 1850, Kamehameha III created a Board of Health and the first public water pipeline carried fresh water from Nu'uanu Valley to Honolulu harbor to fill water casks (3, 25, 41).

In 1854 smallpox vaccination was made compulsory, but three smallpox epidemics followed, the latest in 1882 (3, 25).

In 1856 a drug law for western medications was passed and the "Hawaiian Medical Society" for haole physicians was chartered (3, 11, 25).

In 1859, the Queen's Hospital, providing western medical care, was founded by King Kamehameha IV and Queen Emma. It was the first hospital for native Hawaiians, 22 years after the first of 7 hospitals had been opened for foreigners (33).

In 1862, the first Sanitation Commission was appointed (3).

In 1864, burial of the dead was regulated by law (3).

In 1865, the first receiving hospital for lepers opened in Kalihi, in Honolulu, with the kingdom's new segregation laws. The following year, the first lepers were exiled to Kalawao on the Kalaupapa peninsula on the island of Moloka'i (22, 23). In 189[illegible] the population of the settlement reached a peak of more than 1,200. There was no satisfactory therapy and the annual death rate varied from 12% to 20% (22, 24).

In 1866, the first insane asylum opened in Pālama, Honolulu, with six patients (25).

In 1868, during the reign of Kamehameha V, a "Hawaiian Board of Health" licensed practitioners of native medicine, but certain rituals of old were proscribed, and no formal training was authorized (25).

In 1870, ex-missionary and ex-Prime Minister Dr. Gerrit P. Judd was authorized by the Board of Education to establish the first medical school of western medicine. Two years later, 10 young native graduates were licensed to practice haole medicine, but shortly thereafter Dr. Judd had a stroke and the school closed (34).

In 1873, collection of garbage and street-cleaning began in Honolulu (3, 25).

In 1874, King Lunalilo died of "pulmonary consumption" (tuberculosis) and alcoholism. His Will provided

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for "a home for elderly infirm and destitute Hawaiians" which opened in Makiki in 1885 (25).

In 1876, the Legislature authorized drainage of taro wetlands which were declared "insanitary" (3, 11, 25).

In 1879, the first artesian well for drinking, washing and irrigation was drilled at Honouliuli, O'ahu by James Campbell, founder of the large, land- holding Campbell Estate (25).

In 1882, the first water filtration plant was constructed at Nu'uanu, in Honolulu (11, 25). Inspection of food and licensing of dairies began in Honolulu (3, 11, 25).

In 1884, the first local government hospital, Malulani, was opened at Wailuku, Maui (11).

In 1886, the first plantation hospital at Makaweli, Kaua'i was built by the Hawaiian Sugar Co. By 1890, there were 18,900 plantation employees and four plantation hospitals (11).

In 1880, the government of King Kalākaua was so alarmed at the decline of the native Hawaiian population and the prevalence of squalor, insanitation and morbidity, that the Board of Health issued a book in the Hawaiian language on Sanitary Instructions for Hawaiians written by Walter Murray Gibson (3, 25).

About the same time, the Ho'oulu a Ho'ola Lāhui Society was founded by the King and Queen Kapi'o'ani "to propagate and perpetuate the race." A home for destitute Hawaiians was established in Kaka'ako and the first Kapi'olani Home for non-leprous children of leprous parents on Moloka'i opened next to the Kaka'ako Receiving Hospital (35).

In 1890, the Kapi'olani Maternity Home for birthing of infants of Hawaiian women opened in the renovated house of the Queen's recently-deceased sister Princess Kekaulike in Makiki in Honolulu (36). This private hospital was supported by contributions. Native women were not required to for their medical care until 1917 when non-Hawaiians were first admitted (36).

3. Overthrow of the Monarchy to the Present (1893-1983)
This section continues to provide historical and cultural background for the Health Profile section which follows, focusing on points not shown or readily emphasized in the data tabulations there.

a. Population Changes

As seen in Table 1 below, in 1893, with the armed dethronement of Queen Lili'uokalani, and the establishment of a non-elected Provisional Government by the haole business oligarchy, the native Hawaiians were already a minority in their homeland, although the pure Hawaiians still outnumbered the part Hawaiians (26). The controlling whites were the smallest minority, exceeded by the imported, non-voting Oriental laborers.

The contrast 90 years later, in 1983, is striking. Native Hawaiians are relatively an even smaller minority, with the part Hawaiians far outnumbering the almost vanished pure Hawaiians. The white population has greatly increased, although still exceeded by all Orientals combined (26).

TABLE 1 Hawai'i's Population by Major Ethnic Stock in 1778, 1893 and 1983[a]

Ethnic Stock	1778		1893		1983	
Hawaiian	300,000	100%	40,000	45%	179,300	18%
Pure	300,000	100	34,000	38	9,300	1
Part	0		6,000	7	170,000	17
White	0				300,000	31
U.S.-Europe			12,000	13		
Portuguese			8,000			
Oriental	0		30,000	33		
Other	0					
Total	300,000	100%	90,000	100%	980,000	100%

[a] Approximate figures from Schmitt (26, 37)

b. Major Illnesses

Serious infections continued in the early post-kingdom period as is evident in the following

chronology, but with no reliable, readily available data on the numbers or proportions of pure Hawaiians and part Hawaiians involved. The population figures cited above provide only rough guidelines for such speculative inferences.

In 1895, with the oligarchial Provisional Government succeeded by the oligarchial Republic of Hawai'i, cholera swept through Honolulu and killed 64 (3, 11, 25).

In 1899, the bubonic plague took 61 lives. With the turn of the year, fire to control the plague-carrying rodents destroyed Chinatown in Honolulu, awakening public concern for the residual "filth, squalor. . . homeless, destitute and incurables," including more victims with tuberculosis for the first time became reportable (3, 38)

In 1901, when the Honolulu Home for the Incurables (forerunner of Lēahi Hospital) opened, 32 of the first 72 patients had tuberculosis (38).

In 1903 when 900 known cases of tuberculosis were identified, about 32% were Hawaiians (38). From 1900 to 1923, tuberculosis remained the number one reported "cause of death," with mortality as high as 200 per 1,000 population. The corresponding U.S. mainland tuberculosis mortality rate was declining from 152 to 92 per 1,000. By 1937, although TB mortality rates for all races in Hawai'i had fallen to 88 per 1,000, the rates for pure Hawaiians remained high at 265 and for part Hawaiians at 126, while the rates for whites was 23 per 1,000 (39).

In 1918-20, the post World War I influenza pandemic accounted for 1,700 deaths in Hawai'i (3, 25). During the war years, venereal disease became reportable (3, 11, [illegible]).

In 1919, typhoid killed 42 (3). In this year, the leading reported "causes of death" were influenza-pneumonia, tuberculosis and diarrhea (3).

In 1920, leprosy still claimed 662 active hospital cases at Kalaupapa, with 114 new cases for the year, the majority in Hawaiians (24, 42). Not until sulfone chemotherapy in 1946 did the mortality rate drop from 10% to 2.5% per year (24, 42). By 1974, there were only 13 active cases of leprosy, but over 100 deformed and disabled mainly Hawaiians, with the kidney, nerve, skin, nasal, oral, facial and limb complications of this dreaded disorder (42). The 29 new leprosy cases for that year were chiefly in immigrant non-Hawaiians (24, 42).

In 1928-29, acute meningitis accounted for 68 deaths (42).

In 1930, for the first time, heart diseases displaced infections as the leading reported "cause of death" (42).

In 1936-37, measles deaths numbered 205 (41, 42).

In 1940, the highest-ranking recorded "causes of death" in the Territory were heart diseases, cancer, and kidney failure (42).

In 1942, during the second World War, diphtheria involved 90. The following year, mosquito-borne dengue affected scores (41, 42).

In 1950, the top reported "causes of death" were heart diseases, cancer and stroke (42).

In 1958, acute poliomyelitis struck 77 (41, 42).

c. Health Measures

The following anti-disease actions parallel similar developments on the U.S. mainland, but with some features distinctive of Hawai'i and the native Hawaiian people.

In 1899, after the annexation of Hawai'i to the U.S. as a territory, the first sewers were laid in Honolulu, then a city of 40,000 (3, 11, 25).

In 1902, what is now Lēahi Hospital opened on the mauka slope of Diamond Head in Kaimuki, Honolulu as the Home for the Incurables, with four wards. It was a

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private institution created with contributions from nine wealthy businessmen of the haole oligarchy and $750 from the Board of Health (38). The proportion of tuberculous patients rose from 50% initially, to 100% in 1950, when the Territorial Government built a new hospital wing and assumed operating expenses for the hospital with free medical care for TB patients (38). In 1960, the hospital became a state institution of the University of Hawai'i School of Medicine. In 1976, it was transferred to the state Department of Health (38, 42).

In 1908, the U.S. Congress generously provided $300,000 for the ambitious U.S. Leprosy Investigation Station on the Kalaupapa peninsula, Moloka'i. Only 9 of the 700 patients at the settlement agreed to participate in the Station's investigations, and then only for a few days, so the elaborate facility was compelled to shut down after only two years (23, 35). In 1980, the U.S. Congress approved the recommendations of a commission that Kalaupapa be preserved indefinitely for the remaining leprosy patients there, and then become an historical and cultural reserve under the U.S. National Park Service (43). Active cases of leprosy are now treated at Lēahi Hospital in Honolulu, but some patients are still championing the right to remain in the non-hospital, rural cottage setting of Hale Mohalu in Pearl City on O'ahu (23).

In 1911, the first resident intern was appointed in Hawai'i at the Queen's Hospital, a haole medical graduate from California (11).

In 1914, the first public health nurse was appointed by the Board of Health (11).

In 1916, the first school of nursing in Hawai'i started at the Queen's Hospital (11).

In 1918, during World War I, venereal diseases became reportable (3, 11, 25).

In 1921, the Territorial Government established Waimano Home for the mentally retarded and severely

deformed. Statistics on the number of Hawaiian patients institutionalized there are scheduled to be available in March 1983 (44).

In 1925, the first maternal and child care programs were started by the Board of Health (42).

In 1930, the new Territorial mental health hospital opened at Kāne'ohe, O'ahu with 541 patients (42).

In 1936, a Crippled Children's Bureau and Office of Health Education were created in the Board of Health (42).

In 1937, a separate Bureau of Vital Statistics was established (41, 42).

In 1938, the Hawaii Medical Service Association (HMSA), a private health insurance firm, was founded by the Territory's school teachers and social workers. HMSA is now open to all and by 1975 it had over 400,000 members (11).

In 1967, the University of Hawai'i School of Medicine accepted its first class of 25 students. None was a Hawaiian. Available figures since then on current entering and post-graduating Hawaiian medical students are shown in the next section (45).

C. Health Factors Transforming a People

The 180,000 native Hawaiians of modern Hawai'i, like their 300,000 Polynesian ancestors who occupied these same islands 200 years ago at the time of first western contact, remain proud of their long cultural heritage. Why else would there be a U.S. Native Hawaiians Study Commission?

Yet, they are a very different people in other respects, transformed by genetic life style, and environmental health factors brought about by Americanization.

Their genes are no longer a small pool of "pure Polynesian" DNA molecules. They now comprise a large pool of DNA heterogeneity, with contributions from the Occident and the Orient. In spite of this dilution, some native Hawaiian hereditary factors appear to continue to play some role in the

health and illness profile so distinctive in Hawaiians today. Examples are club foot, hypertension, coronary heart disease, stroke, cancer, diabetes, kidney disease, and chronic lung failure, which will be detailed in the next section.

Life style, however, is probably the major class of factors responsible for ill health among contemporary native Hawaiians (and their fellow non-Hawaiian Americans) (10).

American-style nutrition is largely "fixed" by the profit-oriented, not nutrition-oriented, supermarkets and junk fast-food vendors. This highly-advertised dietary fare, for infant to senior citizen, is excessive to the point of toxicity in calories, fat, sugar and sodium, and is inadequate in fibre. This food pattern fosters obesity, hypertension, atherosclerosis, diabetes, coronary heart disease, heart failure, stroke, cancer and dental caries (46).

Personal hygiene in Hawai'i dominant haole culture is characterized by self-abuse in the form of cigarette-smoking, alcoholism and drug misuse; frenetic, "rat race" stress, lack of proper physical exertion, sleep, and creative leisure; and medical care mainly guided by faddism and commercialism. In spite of "miracle" technologic advances in scientific medicine and improvement in some health statistics indicating we are "doing better", we "feel worse" (47).

With American vigor, we insist on destroying our environment to serve our immediate selfish desires. In the name of "development", we have asphalted taro wet fields, fishponds, and sacred heiau. We have polluted the land, waters and air of what was, to our ancestors, stewardship of the beauty and resources of nature, the gift and domain of the gods, not for a life time, but for all time. We have crowded ourselves into insanitation and insanity. We kill each other "unintentionally" speeding on highways and freeways, and intentionally in street crimes and wars; and now we threaten to blow up our planet in a nuclear holocaust.

All of these ill-promoting factors are not only un-Hawaiian, they are anti-Hawaiian (10). Are they really American or are they also un-American and anti-American?

II. HEALTH PROFILE

Although inadequate, this section attempts to provide the best available updated health data on the native Hawaiians.

A. Collection and Recording of Health Data

1. Varying Definitions of Hawaiian and Part Hawaiian

a. State Vital Statistics

Birth, death and marriage certificates at the State Department of Health depend entirely on voluntary information (48). The race of the newborn child is based on the race given of the parents. If both parents are Hawaiian, the child is Hawaiian--"pure" Hawaiian. If one parent is Hawaiian and the other is part Hawaiian, the child is part Hawaiian, regardless of the fraction of part Hawaiian. If one parent is Hawaiian or part Hawaiian and the other is non-Hawaiian, the child is part Hawaiian, regardless of the fraction.

For marriage, the race is Hawaiian or part Hawaiian depending on whatever the bride or bridegroom records.

For death, the race is Hawaiian or part Hawaiian if the living informant so informs the funeral director who completes the death certificate.

b. Household Surveillance

In the Department of Health Household Surveillance Program, the above criteria are followed based on the race of the respondent's parents, as stated by the respondent to a trained interviewer. In 1980, ethnic statistics for the entire state of Hawai'i were based on surveillance of a sample of 6,944 households and 14,407 persons throughout the state (49). The race data from this program are currently considered the most reliable (48).

c. U.S. Census

In the 1970 and 1980 decennial U.S. Census, but not prior, only one race was recorded for each person--Hawaiian or other race, but not part Hawaiian.

Therefore, U.S. decennial ethnic statistics are considered incomplete and less reliable (37, 48).

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3. Varying Population Bases

All health data and especially rates, must be viewed with full awareness of the drastic changes that have occurred in the population of Hawaiians, part Hawaiians and non-Hawaiians since contact in 1778 (50):

a. Pure Hawaiians, who accounted for 100% of the island population of c300,000 in 1778, became a minority of 49.7% (40,014) in 1884, within a total population of 80,578 in 1884, and declined further to less than 1.0% (9,300) in 1980.

b. Part Hawaiians constituted 1.3% (983) of the total population of 73,138 in 1853, and rose to 17% (170,000) of the total population of 980,000 in 1980.

c. Non-Hawaiians were 0% of the population of c300,000 in 1778, comprised 3% (2,119) of the population of 73,138 in 1853, and dominated with 82% of the total population of 980,000 in 1980.

B. Birth and Death Rates

1. Table 2 shows that after contact in 1778, birth rates were low in the 1800s, if one considers rates of 40 or higher usual for a non-contraceptive, non-industrialized society (51). This evidence of low fertility could have been related to the known venereal disease, other infectious epidemics, malnutrition, social and economic disintegration, and demoralization of the native Hawaiians of that period, as described in a previous section (3, 27).

2. The death rates, as seen in Table 26, were high in Hawai'i in the 1800s. This high mortality rate is ascribable to the known recurring waves of contagious epidemics, lack of immunity, genetic non-immune susceptibility, and despair, as also related in the previous section (3, 27).

TABLE 2 CRUDE BIRTH AND DEATH RATES: ANNUAL AVERAGES FOR SELECTED PERIODS, 1848 TO 1980*

TABLE 36
CRUDE BIRTH AND DEATH RATES:
ANNUAL AVERAGES FOR SELECTED PERIODS, 1848 TO 1980

(Place of occurrence basis. Not adjusted for underregistration, thought to be extensive in many of these years. Because of doubtful accuracy, the data before 1910 should be used with utmost caution.)

Period	Birth Rate	Death Rate
1848-1859	21.3	45.8
1860-1869	27.1	40.8
1870-1879	41.0	51.4
1880-1889	23.6	25.3
1890-1899b	...?	26.4
1900-1909	16.6	16.6
1910-1919	31.3	16.3
1920-1929	39.5	14.4
1930-1939	28.2	9.6
1940-1949	28.6	6.8
1950-1959	31.8	6.1
1960-1969	27.3	5.5
1980	18.6	5.0

[a] Annual events per 1,000 population computed as average of annual rates for period. Population base excludes armed forces after 1897. Residence basis to 1950; de facto basis thereafter.

[b] City of Honolulu only.

Source: Schmitt, p. 164. (26)

*Data are for the total Hawai'i population and not just native Hawaiians: therefore, it is helpful to be aware that the rates from 1848-1884 occurred during a decline in the proportion of pure Hawaiians from greater than 95% to less than 50%, and thereafter, to less than 1% in 1980, and during a gradual incline in part Hawaiians from less than 2% in 1848 to c17% in 1980, and a rapid rise in non-Hawaiians from greater than 50% in 1884 to about 83% of the total island population in 1980.

C. Infant Mortality and Birth Characteristics

1. Data on infant mortality prior to 1924 apparently are not readily available. From 1924 to 1980, as seen in Table 3 (53), Hawaiians and part Hawaiians had greater infant mortality rates than the averages for all races, and in 1963, they displayed the highest infant mortality rate of any ethnic group in the islands.
In 1970, the rates were highest for Hawaiians, but near average for part Hawaiians (48).

TABLE 3 DEATHS UNDER ONE YEAR OF AGE PER THOUSAND BIRTHS, 1924-1980

	1924	1929	1940	1950	1960	1963	1970	1980
All Races	119	91	50	24	22	21	19	10
Hawaiian	205	198	129	60	43	38	65	--
Part-Hawaiian	96	109	57	26	26	25	22	10
Portuguese	100	64	39	24	20	20	19	11
Other Caucasian	44	49						
Chinese	64	55	40	24	21	21	10	9
Japanese	80	57	34	18	22	17	14	7
Korean	70	51	36	19	29	16	35	10
Filipino	294	219	73	31	25	22	18	12
Puerto Rican	110	99	67	26	24	13	32	6

Source: Lind, p. 106. (53)
Burch TA (48)

The causes of infant mortality include possible genetic defects; malnutrition; inadequate personal hygiene, such as overwork, insufficient rest, insanitation, infection, alcoholism, tobaccoism, drug abuse, specific diseases; environmental factors, such as inadequate housing, crowding, trauma, noise, stress and poverty. Any or all of these may be pertinent to the high rates among Hawaiians.

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2. In 1977-1981, the infant death rate for part Hawaiians was the highest, as shown in Table 4 (48).

TABLE 4 RESIDENT INFANT DEATHS BY RACE OF MOTHER, 1977-1981

RESIDENT INFANT DEATHS BY RACE OF MOTHER 1977-1981

	Births	Deaths	Rate*
All races	87,463	922	10.5 +/- 0.7
Caucasian	26,464	236	8.9 +/- 1.1
Hawaiian	707	7	9.9 +/- 7.3
Part-Hawaiian	18,606	256	13.8 +/- 1.7
Chinese	3,285	23	7.0 +/- 0.9
Filipino	14,954	137	9.2 +/- 1.4
Japanese	12,688	112	8.8 +/- 1.6
Puerto Rican	1,066	8	7.5 +/- 5.2
Korean	1,775	20	11.3 +/- 4.9
Portuguese	735	6	8.2 +/- 5.5

*Number of infant deaths per 1,000 live births +/- 95% confidence limits.

Source: Department of Health Annual Report, Statistical Supplement 1977, 1978, 1979, 1980, 1981 (54). Confidence limits calculated by Department of Health Research and Statistics Office.

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3. Birth characteristics, by race of mother, in 1980, listed in Table 5, reveal: higher birth rates for part Hawaiians than the average for all races, and higher than for pure Hawaiians; about average percentage of low birth weights; and the highest ration of illegitimate births (48, 55).

TABLE 5 CHARACTERISTICS OF BIRTHS BY RACE OF MOTHER IN HAWAI'I RESIDENTS, 1980

TABLE 5
CHARACTERISTICS OF BIRTHS BY RACE OF MOTHER[1]
HAWAII RESIDENTS 1980

Race of Mother	Births	Rate Per 1000 Pop.[2]	Sex Ratio[3]	Low Birth Weight	Illegitimate[4]
Total	18,129	19.5	1.1	7.16	175.9
Caucasian	5,859	26.0	1.1	5.96	133.6
Hawaiian	163	17.5	0.9	7.40	376.1
Part-Hawaiian	3,041	[illegible]	1.0	7.40	363.2
Japanese	2,655	13.2	1.1	11.84	67.8
Chinese	706	14.9	1.0	5.85	62.5
Filipino	3,042	29.1	1.1	9.30	153.2

Source: 1. All data Department of Health Statistical Supplement 1980 (55)
2. Based on population totals from State of Hawaii Data Book 1981
3. Males divided by females
4. Number of illegitimate births per 1000 live births

High birth rates among Hawaiians currently is expected as the population of part Hawaiians continues to increase (52). The average percentage of low birth weights for Hawaiians suggests that factors other than those causing low birth weight account for the higher infant mortality among Hawaiians. The high ratio of "illegitimate" births among Hawaiians is consistent with traditional Hawaiian cultural beliefs that there is no such thing as an "illegitimate" child. Every baby is cherished. Mating without binding marriage vows was the norm in old Hawai'i. All older members of the extended 'ohana participated in the care of the younger members (15).

D. Life Expectancy

1. Apparently beginning in 1910, life expectancy calculations became feasible. However, figures for pure Hawaiians vs. part Hawaiians, and data after 1970, apparently are not available.
2. As shown in Table 6, throughout the period from 1910 to 1970, Hawaiians exhibited significantly shorter life expectancy than any other ethnic group in Hawai'i (56). This finding is consistent with the higher rates of morbidity and mortality for Hawaiians and part Hawaiians in most of the major disease categories, as detailed elsewhere in this report.

TABLE 6 ESTIMATED LIFE EXPECTANCY AT BIRTH BY ETHNIC GROUP, 1910-1970

ESTIMATED LIFE EXPECTANCY AT BIRTH
BY ETHNIC GROUP, 1910-1970

Year	Caucasian	Chinese	Filipino	Hawaiian	Japanese	Other	Total
1910	54.83	54.17	n/a	32.58	49.34	15.62	43.96
1920	56.45	53.80	28.12	33.56	50.54	28.38	45.69
1930	61.90	60.07	46.14	41.87	60.07	32.58	53.95
1940	64.03	65.32	56.85	51.78	66.28	59.68	62.00
1950	69.21	69.74	69.05	62.45	72.58	68.29	69.53
1960	72.80	74.12	71.53	64.60	75.68	62.19	72.43
1970	73.24	76.11	72.61	67.62	77.44	76.74	74.20

Source: C. S. Park, R. W. Gardner, and C. Nordyke, RMS Report, Research and Statistics Report (Honolulu: Hawaii State Department of Health, June 1979), p. 8. (56)

E. Leading Diagnosed Causes of Death

1. Data are available in the State Department of Health from 1910 to 1982 on leading diagnosed causes of death for pure Hawaiians vs. part Hawaiians, and all other races (48). These data should be in a table or tables titled:

TABLE 7. LEADING DIAGNOSED CAUSES OF DEATH IN HAWAI'I RESIDENTS, BY RACE, WITH STANDARDIZED MORTALITY RATES, FROM 1910-1982 (or 1980)
Source: Department of Health (48)

2. The September 1982 Draft Report summary interpretations of M. Look's 1982 publication are appropriate. However, Look's paper (57):
   a. Contains only graphs, but no figures for ready comparison.
   b. Has no data on stroke--the third major "cause of death" in Hawaiians.
   c. Has no data on the high rate of suicide in young Hawaiians.
   d. Has no data on the high rate of auto deaths in Hawaiians.

   M. Look has recently volunteered to procure these data for this report (58).
3. Meanwhile, the following figures for 1980 were obtained from the Department of Health for another publication (59).

Leading Diagnosed Causes of Death	Deaths Per 100,000 Population* Pure Hawaiians	Part Hawaiians	All Races
(1) All heart diseases	397	106	83
(2) All cancers	181	75	69
(3) All strokes	171	39	38
(4) All accidents	100	36	34

*Rounded figures are standardized mortality rates, adjusted for age.

3. Causal factors for the leading diagnosed "causes of death" have been cited in a previous section and are mainly related to life style, but also with inter- related genetic and environmental factors.

   Heart diseases are numerous, but the chief killer is coronary atherosclerosis, with heart failure, myocardial infarction ("heart attack"), fatal heart rhythms, and shock. The main risk factors are family history (?genes), cigarette smoking, diabetes, hypertension, high blood fat, physical inactivity, stress, obesity and excessive dietary fat. Some of these factors have been examined in Hawaiians as reported in the next section (60).

Cancer risk factors are discussed below in the next section (61).

Strokes are mainly attributable to hypertension and atherosclerosis. High blood pressure is most often associated with family history, excessive sodium intake and stress. Atherosclerosis is related to fatty foods, stress, cigarette smoking, and sedentary life style.

Accidents are chiefly auto deaths, frequently associated with alcohol and or teen-age irresponsibility.

Many of the foregoing factors are in part associated with low socio-economic status, inadequate health education, and despair.

F. Cancer Incidence

1. Age-adjusted average annual incidence per 100,000 population of various cancers in Hawai'i, by ethnic group, have been published recently (61). Pure Hawaiian vs. part Hawaiian distinction is not made.

   Table 8 shows that in the period 1973-1977, Hawaiian males had the highest rates of cancer of the esophagus, stomach, pancreas, lung and reticuloendothelial system.

   Hawaiian females had the highest rates of cancer of the stomach, lung, breast, uterine cervix, ovary, kidney, thyroid, liver-biliary tract, and pancreas.

TABLE 8 AGE-ADJUSTED AVERAGE ANNUAL INCIDENCE RATE PER 100,000 OF CANCER BY SITE, SEX AND ETHNIC GROUP, 1973-1977

	Males					Females				
Cancer Site	Cau	Jpn	Chi	Haw	Fil	Cau	Jpn	Chi	Haw	Fil
Mouth-Pharynx	11.6	3.1	2.2	9.1	5.6	7.9	1.0	0.7	5.3	4.3
Esophagus	2.5	4.1	6.1	10.1	6.5	1.9	0.6	0.6	2.7	1.0
Stomach	12.7	33.1	10.6	37.7	8.3	5.0	15.1	8.3	16.0	6.1
Colon	25.5	26.5	29.3	13.9	16.4	17.8	18.0	21.5	14.3	9.7
Rectum	13.8	21.0	16.4	10.5	13.3	8.6	9.1	8.7	9.3	9.4
Liver-Biliary	5.0	9.5	12.1	12.6	11.0	3.5	6.1	6.8	11.7	4.0
Pancreas	8.4	8.1	7.0	10.7	6.5	6.5	4.3	6.5	7.4	1.7
Larynx	8.0	3.5	1.6	5.7	1.9	1.3	0.4	0.0	1.5	0.5
Lung	64.1	36.3	31.5	90.5	24.6	17.0	11.4	23.7	41.3	10.0
Hem-R.E. system	11.8	8.0	6.0	18.8	10.7	8.0	7.3	5.8	11.3	11.9
Breast	--	--	--	--	--	86.6	47.1	55.3	88.1	30.3
Cervix	--	--	--	--	--	9.5	6.3	7.8	17.5	6.6
Corpus Uteri	--	--	--	--	--	25.3	19.8	20.5	35.1	15.1
Ovary	--	--	--	--	--	9.5	7.0	7.6	11.1	4.7
Prostate	58.4	33.9	27.7	60.3	50.3	--	--	--	--	--
Bladder	22.7	9.7	8.4	5.7	6.5	3.9	3.3	1.1	6.4	3.6
Kidney	10.9	5.7	2.6	5.4	6.6	3.0	1.0	3.6	4.5	2.9
Thyroid	3.8	4.6	7.3	6.4	6.6	6.6	6.3	13.0	17.2	16.9
All sites*	327	231	198	354	176	275	183	218	342	159

*Excludes squamous and basal cell skin cancer

Source: Hinds, *et al*, 1981 (61)

2. Table 9 demonstrates that Hawaiian males had the most rapid five-year increase in the incidence of cancer of the stomach and lung. Hawaiian females had the most rapid rise in the incidence of cancer of the lung and breast.

TABLE 9 CHANGES IN AVERAGE ANNUAL AGE-ADJUSTED CANCER INCIDENCE per 1[illegible],000 BETWEEN 1968-1972 and 1973-1977, BY SEX AND ETHNIC GROUP FOR SELECTED SITES

TABLE 3. Changes* in average annual age-adjusted cancer incidence per 10,000 between 1968-72 and 1973-77, by sex and ethnic group for selected sites

Cancer Site	Cau	Jpn	Chi	Haw	Fil	Cau	Jpn	Chi	Haw	Fil
Stomach	-29%	-10%	+20%	-13%	+9%	-11%	-34%	-20%	-33%	
Colon	+6	+17	+5	-7	-4	-20	-7	+21	-6	-37
Rectum	+4	+27	-16	+12	-15	-25	-11			
Lung	+27	+5	-16	+30	-2	+33	+37	+18	+111	-17
Breast	—	—	—	—	—	+9	11	+9	+33	+45
Cervix	—	—	—	—	—	-26	-18	-31	-3	-50
Corpus Uteri	—	—	—	—	—	+29	+30	+52	+13	+14
Prostate	+34	+31	+66	+67	+100	—	—	—	—	—
Bladder	+15	-19	-11	-40	+86	-28	0			
All Sites	+15	+5	-1	+11	+9	-2	+1	+1	+23	-5

* Increase or decrease expressed as a percentage of the 1968-72 rate
Fewer than 10 cases reported in 1968-72 and/or 1973-77
Excludes squamous and basal cell skin cancer

3. Although the precise causation of cancer is not known, certain factors are known to be associated with an increased risk of particular forms of cancer (61). Thus, stomach cancer risk increases with eating of pickled vegetables. Lung and esophageal cancer are greatly enhanced by cigarette-smoking. Breast cancer seems to be related to obesity, late age of first pregnancy and dietary fat intake. How these or other factors are pertinent to the alarming occurrence of cancer in Hawaiians remains to be determined.

G. Acute and Chronic Conditions

1. The Department of Health Surveillance Program collects data by interviewing about 14,000 residents in about 7,000 households throughout the state (48, 49). Table 10 shows that the Hawaiians and part Hawaiians report the highest rates of acute conditions, and particularly for respiratory conditions (55).

TABLE 10 NUMBER OF ACUTE CONDITIONS PER 100 PERSONS PER YEAR BY ETHNICITY, 1980

	CAUCASIAN	JAPANESE	HAWAIIAN PT. HAWAIIAN	FILIPINO	CHINESE	OTHER & UNKNOWN
ALL ACUTE CONDITIONS	193.2	123.8	200.4	121.8	104.3	212.4
INFECTIVE PARASITIC DISEASES	15.5	3.0	8.1	8.2	11.9	15.7
RESPIRATORY CONDITION	110.4	88.0	150.0	90.8	56.3	130.4
UPPER RESPIRATORY	72.9	71.1	110.0	58.2	44.7	98.7
INFLUENZA	40.2	13.8	30.0	30.3	9.5	35.7
OTHER RESPIRATORY CONDITION	5.2	3.3	1.1	2.3	2.1	6.0
DIGESTIVE SYSTEM CONDITION	3.6	3.0	4.3	3.4	---	2.4
INJURIES	31.6	16.8	30.4	10.8	15.9	22.4
ALL OTHER ACUTE CONDITIONS	24.1	12.8	19.6	10.6	20.0	33.6

Source: Hawaii State Department of Health, Statistical Supplement, 1980, p. 71. (55)

2. According to Department of Health data generated for Alu Like in 1977, pure Hawaiians reported higher prevalences, compared to all races, as shown, for the following conditions (62):

Condition	Pure Hawaiians	All Races
High blood pressure	22.6%	12.2%
Diabetes	14.4	5.3
Arthritis	8.3	5.6
Heart trouble	4.2	2.8
Stroke	1.4	0.7

Part Hawaiians reported higher rates for the following conditions:

Condition	Part-Hawaiians	All Races
Asthma	17.[illegible]	8.5%
Chronic bronchitis	3.8	1.7

3. Arterial hypertension has been studied in more detail among 1,167 men employees of the City and County of Honolulu and the Hawaiian Telephone Company in 1966 (60). Table 11 shows highest rates of hypertension among pure and part Hawaiians, especially those who were overweight.

TABLE 11 BLOOD PRESSURE* BY RACE IN 1,167 MALE EMPLOYEES IN HAWAI'I, 1966

Japanese	400	178	44.3	164	41.0	58	14.5
Filipino	27	9	33.3	14	51.9	4	14.8
Chinese	103	59	57.3	38	36.9	6	5.8
Caucasian	183	84	45.9	75	41.0	24	13.1
Hawaiian							
Pure	43	10	23.3	21	48.8	12	27.9
Part	346	109	31.5	166	48.0	71	20.5
Other Races	65	36	55.4	20	30.8	9	13.8
TOTAL	1,167	485	41.5	498	42.7	184	15.8

*Criteria from Am. J. Pub. Health, 50:23 (Oct.), 1960.

Source: Stokes, et al (60)

4. Coronary heart disease was greatest among Hawaiians in 2,000 consecutive autopsies performed at the Queen's Hospital in Honolulu in 1959 (63). In 1969, coronary risk factors were compared in 42 Hawaiian men vs. 68 Japanese men in Hawai'i who had had myocardial infarction. The Hawaiians had higher overweight indices, higher blood pressure, and greater frequency of diabetes (64).
5. End-stage kidney disease has been reported as being most prevalent among Hawaiians in 1979 (65).
6. Congenital-hereditary disorders studies have revealed a high frequency of club foot in Hawaiians (28). The earliest evidence is in the precontact skeletal remains recovered from the Mokapu, O'ahu sand dunes (7).
In 1969, detailed investigation of 913 reported cases in Hawai'i disclosed incidences of 68.12 per 10,000 births for unmixed Hawaiians, vs. 11.21 for unmixed Caucasians, and 5.67 for unmixed Orientals (66). There was no evidence of any associated intra- or extra-uterine environmental factors. The data supported a genetic hypothesis.

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7. Teenage Pregnancies. Pregnancy rates for girls less than 18 years of age have remained highest among Hawaiians from 1976 through 1981 (67). Of the 426 pregnancies by these Hawaiian girls in 1981, 60% resulted in live births, 37% in abortions, and 3% as fetal deaths. These figures represent a higher proportion of live births and a lower proportion of abortions compared to the other ethnic groups. However, "no prenatal care" was twice as high for Hawaiian pregnant teenagers than for others, and 87% of Hawaiian teen births were "illegitimate" compared to 76% statewide. These statistics reflect persistence of traditional precontact Hawaiian values toward mating, childbirth and the infant as described in a previous section. In pre-Cook Hawai'i, these data would not represent a "problem" as they do in our contemporary Americanized society.

8. Dental Caries. In 1973, the relationship of eating certain foods to the occurrence of dental decay was studied in 910 eighth grade public school students, by race, in Hawai'i (68).

   As seen in Table 12, the rates of decayed, missing or filled (DMF) teeth were highest among Hawaiian youngsters. These rates correlated with the high frequency of consuming starchy foods, sweet beverages, desserts, snacks, and candy and gum.

TABLE 12 DMF RATES AND FREQUENCY OF EATING SELECTED FOODS BY RACE AND FLUORIDE EXPOSURE IN HAWAI'I 8TH GRADE STUDENTS, 1973

	Caucasian		Japanese		Hawaiian		Other		Total	
	Fl	Non-Fl	Fl	Non-Fl	Fl	Non-Fl	Fl	Non-Fl	Fl	Non-Fl
Number	113	90	180	46	100	35	175	70	673	237
DMF	6.67	9.00	7.06	7.96	8.72	9.38	6.63	6.90	7.33	7.87
Bread and cereals	1.10	1.13	1.26	1.29	1.95	1.30	1.61	2.00	1.73	1.95
Meat, fish, and poultry	1.86	1.88	1.89	1.97	1.61	1.67	1.73	1.64	1.77	1.88
Starchy foods	1.40	1.38	1.89	2.08	2.58	2.96	2.06	2.48	2.18	2.38
Vegetables	1.60	1.36	1.63	1.60	1.63	1.66	1.61	1.56	1.63	1.58
Sweet beverages	2.98	2.41	2.46	2.80	3.85	3.76	2.91	3.30	3.06	2.96
Dessert items	2.90	2.61	1.98	1.91	4.98	3.6	3.07	4.20	3.31	3.04
Miscellaneous snacks	1.30	1.10	1.37	1.11	2.38	2.08	1.80	2.43	1.82	1.98
Candy and gum	2.16	2.40	1.95	1.76	3.80	3.76	2.01	3.40	2.49	2.96

Note: Exposure pertains only to use of dietary fluoride supplements, topical applications of fluoride, or both. Fl, exposed to fluoride; Non-Fl, not exposed to fluoride.

Source: [illegible], et al (68)

H. Mental Health

1. Data from the Mental Health Division of the State Department of Health show the Hawaiians' use of state mental health facilities to be similar to their representation in the total state population, as shown in Table 13 (69).
2. Psychiatric diagnoses, however, were distinctive, as seen in Table 14 (69). Hawaiians manifested more transitional situational disorders, behavioral disorders and other personality disorders, mental retardation, and drug abuse than expected from their proportion in the mental treatment population. Further, Hawaiians ranked highest for mental retardation, drug abuse, "missing data," and "diagnosis deferred."

TABLE 13: PERSONS UNDER CARE STATEWIDE IN STATE MENTAL HEALTH DIVISION BY ETHNIC GROUP, 1979

ETHNIC GROUP	HAWAII POPULATION (1979)		PERSONS UNDER CARE (Dec 1979)		SERVICE ESTIMATE[a]
	N	%	N	%	
Caucasian	226,551	25.7%	1,993	25.1%	98%
Japanese	217,051	24.8%	852	12.0%	52%
Part Hawaiian	167,180	19.0%	1,174	17.6%	93%
Filipino	95,665	10.9%	619	9.3%	85%
Chinese	38,625	[illegible]	154	2.3%	53%
Korean	14,052	1.6%	68	1.0%	63%
Samoan	11,520	1.3%	153	2.3%	177%
Black	7,912	.9%	80	1.2%	133%
Puerto Rican	[illegible]	.4%	164	2.5%	675%
Other/Unknown	96,970	11.0%	1,409	21.1%	192%
TOTALS	880,051	100.0%	6,666	100.0%	$\bar{x}$ = 96%[b]

a) Service Estimate = Column 4/Column 2 (see Introduction).

b) Weighted mean

SOURCE: [illegible] (69)

TABLE 14: PSYCHIATRIC DIAGNOSES [illegible] BY ETHNIC GROUP, 1979

ETHNIC GROUP	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	MISSING DATA	NO MENTAL DISORDER	DIAGNOSIS DEFERRED	TOTALS
1) Caucasian: % Caucasian % Diagnostic Frequency	15.1%* 13.9%** (264)	19.3% 28.7% (323)	17.1% 30.7% (281)	11.7% 38.0% (197)	9.9% 31.1% (166)	5.4% 31.5% (90)	7.4% 53.0% (124)	.6% 6.7% (10)	2.0% 27.9% (34)	2.3% 17.7% (38)	.7% 17.5% (11)	2.3% 27.9% (39)	6.9% 36.2% (115)	100.0% 35.1% (1677)
2) Japanese: % Japanese % Diagnostic Frequency	[illegible]	13.7% 9.0% (117)	9.3% 11.0% [illegible]	6.3% 7.0% (30)	5.3% 8.9% (44)	4.3% 12.9% (37)	1.3% 3.9% (9)	2.9% 16.0% (25)	1.3% 9.0% (11)	2.7% 14.9% (23)	.6% 7.0% (5)	1.3% 7.0% (10)	4.0% 7.3% (34)	100.3% 12.0% (852)
3) Part Hawaiian: % Part Hawaiian % Diagnostic Frequency	14.7% 9.3% (173)	23.4% 28.9% (275)	6.9% 11.3% (81)	14.3% 26.0% (168)	11.3% 25.0% (133)	2.3% 8.7% (28)	3.0% 10.1% (35)	3.5% 27.3% (41)	3.0% 20.7% (35)	2.5% 12.1% (30)	1.8% 33.3% (21)	3.1% 25.9% (36)	11.0% 27.2% (129)	100.1% 17.6% (1174)
4) Filipino: % Filipino % Diagnostic Frequency	22.8% 7.5% (141)	23.9% 12.3% (148)	8.6% 7.6% (53)	13.6% 12.3% (84)	6.3% 7.0% (39)	4.9% 10.9% (30)	1.1% 3.0% (7)	1.5% 6.0% (9)	.8% 4.1% (5)	3.1% 6.0% (19)	1.1% 11.1% (7)	2.9% 13.3% (18)	9.6% 12.6% (59)	99.9% 9.3% (619)
5) Chinese: % Chinese % Diagnostic Frequency	37.0% 3.1% (57)	14.3% 1.0% (22)	9.7% 2.1% (15)	10.3% 3.3% (16)	8.4% 2.5% (13)	3.0% 1.6% (4)	1.3% .5% (2)	1.3% 1.3% (2)	1.3% 1.6% (2)	5.2% 3.7% (8)	1.3% 3.2% (2)	2.6% 2.9% (4)	4.5% 1.5% (7)	100.1% 2.3% (154)
6) Portuguese: % Portuguese % Diagnostic Frequency	31.1% 3.5% (67)	18.6% 4.9% (40)	17.2% 7.5% (36)	9.3% 6.6% (20)	9.1% 5.0% (20)	5.7% 6.5% (12)	3.2% 3.0% (7)	5.1% 7.3% (11)	1.0% 4.2% (5)	5.0% 7.6% (10)	1.3% 6.3% (4)	1.9% 2.9% (4)	6.4% 3.0% (14)	100.2% 4.0% (215)
7) Korean: % Korean % Diagnostic Frequency	35.3% 1.3% (24)	20.6% 1.3% (14)	7.4% .7% (5)	7.4% .7% (5)	8.8% 1.3% (6)	7.4% 1.7% (5)	- - -	2.9% 1.3% (2)	2.9% 1.6% (2)	2.9% .9% (2)	1.5% 1.6% (1)	- - -	2.9% .6% (2)	100.0% 1.0% (68)

* 15.1% of the 1677 Caucasians under care in the State of Hawaii Mental Health System in June of 1979 (N = 264) were initially diagnosed as "Schizophrenic."
** 13.9% of the 1901 persons initially diagnosed as "Schizophrenic." (N = 264) were Caucasian.

SOURCE: [illegible] (69)

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These data suggest that while Hawaiians may be seen in mental health facilities, they may not communicate fully. Possible reasons are proposed in an Alu Like report below (71).

3. Suicide. Department of Health suicide data were studied for the 64-year period, 1908 to 1972 (70). For the most recently examined 5-year period, 1968-72, Hawaiian and part Hawaiian males had the highest age-standardized suicide rate--22.5 per 100,000 population--compared to 13.5 for males of all races. The rates were even higher in the 20-34 year age group of Hawaiian males.
These findings support the hypothesis that the despair of cultural conflict, particularly in the young male Hawaiian, continues to be not only common, but serious. Serious enough to lead to self-destruction.

4. Culturally-Sensitive Mental Health Service to Hawaiians. An Alu Like report of a mental health program in a semi-rural Hawaiian community of c15,000 in Nānākuli, O'ahu makes the following points (71):
   a. Native Hawaiians have unique problems because they are an "indigenous people living under a non-indigenous government."
   b. Cultural conflicts between the traditional personal, family, social behavior of old Hawai'i vs. modern haole socio-economic competitive pressures generate mental stress and emotional disorders.
   c. Western therapeutic approaches in the Hawaiian community by non-Hawaiian health professionals have not been effective for non-western Hawaiians.
   d. Recently, a culturally-sensitive service, Hale Ola o Ho'opākōlea, has been established to engage community personnel, such as informal caregivers and natural healers, and to train formal health professionals in sensitive approaches to native Hawaiian clients.

I. Alcohol Use and Abuse

Insert Tables 34, 35, 36, 37 as in the Draft Report pp. 55-61.

J. Drug Use and Abuse

K. Elderly Hawaiians
An Alu Like report of elderly Hawaiians, over 65 years of age, in 1977, indicated that 75.9% of Hawaiians vs. 66.3% of non-Hawaiians reported major chronic illnesses (73).

L. Medical Care
1. Although the Queen's Hospital in 1859 and the Kapi'olani Hospital in 1890 were founded for native Hawaiians where they could receive free medical care, as cited in a previous section, this policy is no longer being implemented. Lunalilo Home for elderly and destitute Hawaiians provides no free medical care. Hawaiians receive no special formal medical attention in their homeland.
2. Like their fellow Americans, they pay directly themselves for medical care, purchase health insurance, or acquire Medicaid and or Medicare coverage if they apply and are deemed eligible.
3. Statistics on these forms of health care are not available, except for one Alu Like study on elderly Hawaiians in 1977 (73). According to this report, 15.7% of Hawaiians over the age of 60, had no health insurance vs. 9% of non-Hawaiians.
4. Alu Like, founded in 19 6 as a Native American agency for Hawaiians, has completed a valuable health needs assessment, and started a few pilot projects on health advocacy and health education; however, because of lack of sustaining funds, no new programs are planned (73).

M. Health Professionals
1. Physicians
Reliable data are not available on the number of Hawaiian licensed physicians in the State of Hawai'i; nor does the Hawai'i Medical Association have such information (74). Of the c2,000 licensed and practicing MDs in the state, less than 50 are believed to be Hawaiians (10).

2. University of Hawai'i School of Medicine
The only medical school in the state started its first class of medical students in 1967. It was then a two-year school. There were [illegible] students in that first class. None was Hawaiian (75). In 1977, recruiting of minority students began (45).
Since 1975, when the first class was graduated by the school, the pertinent statistics are as follows (45):

TABLE 19 HAWAIIAN STUDENTS IN THE UNIVERSITY OF HAWAI'I SCHOOL OF MEDICINE BY GRADUATING CLASS YEAR

Class Year	Hawaiians		Class Size
1975	4	6.5%	[illegible]2
1976	1	1.9%	[illegible]3
1977	3	5.5%	55
1978	3	4.8%	62
1979	8	12.5%	64
1980	6	8.3%	72
1981	7	8.9%	79
1982	7	9.9%	71
1983	3	4.6%	66
1984	6	9.0%	67
1985	8	10.8%	74
1986	6	9.2%	65
TOTAL	39	7.5%	798

SOURCE: Young (45)

By 1982, 39 Hawaiian students had acquired their M.D., 7.5% of the 518 graduating students, since the school started in 1967. Most of the graduates are still in residency training. Only one of the Hawaiian graduates in practice has found a suitable position in the Hawaiian community.

3. Nurses
The Hawai'i Nurses Association has no information on the number of nurses in the state who are Hawaiian (76).
The University of Hawai'i School of Nursing provided these figures on Hawaiian nursing students for the years since 1975 (77):

TABLE 20 HAWAIIAN STUDENTS ENTERING THE UNIVERSITY OF HAWAI'I SCHOOL OF NURSING BY YEAR

Year	Hawaiians		Total
1975	27	17.0%	159
1976	21	11.9%	177
1977	28	16.0%	175
1978	5	4.0%	126
1979	14	6.1%	229
1980	8	4.0%	200
1981	6	2.1%	284
1982	3	0.8%	354
TOTAL	112	7.5%	1,504

SOURCE: Dubin (77)

As in the medical school, Hawaiian nursing students are also under-represented. Unlike in the medical school, the number and proportion of entering Hawaiian nursing students is declining.

4. Public Health Workers
The Department of Health reports the following non-hospital Hawaiian employees for 1983 (78):

Class of Employee	Hawaiians		Total
All	316	13.6%	2,316
Administrative heads	1	10.0	10
Staff Public Health Professionals	1	4.2	24

5. University of Hawai'i School of Public Health
Aware of the under-representation of Hawaiians among public health professionals, the School of Public Health began a program to recruit minority students in 1978. The following figures on this equal opportunity program were provided (79):

Students	Hawaiians		Total
Recruited	10	31%	32
Graduated	6		
Still in school	4		
Drop out	1		
Applicants for 1983	0		

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In all the major health professions, Hawaiians are seriously under-represented. Although efforts have been made through equal opportunity and affirmative action programs to correct these inequities, only meager progress has been made and without steady improvement.

Education in these professions, of course, is haole in orientation. The need, as has been pointed out, is not only for more Hawaiians in these disciplines, but for Hawaiians who are culturally sensitive to their underserved people. How sensitive such new health graduates are and how motivated they are to serve in Hawaiians communities have not been assessed.

E. Summary of Health Profile

1. Birth rates were low and death rates were high for the native Hawaiians in the 1800s. These figures reflected the more than 80% decline in the indigenous population during that century from introduced infections and their socio-cultural-political-economic disintegration, with resulting malnutrition, insanitation, and despair.
   In the 1900s, after U.S. annexation, the initially somewhat higher birth rates and falling death rates apply to a rapidly increasing non-Hawaiian, and lesser part Hawaiian, population undergoing western industrialization. The 1980 birth rate figure of 18.6 and death rate of 5.0 per 1,000 emerge from a mixed population practicing birth control, and with a lengthening life span.
2. Infant mortality higher rates for Hawaiians and part Hawaiians continued from the early 1900s into the 1970s, in spite of the rising part Hawaiian population. The higher rates of "illegitimate" births and teenage pregnancies among Hawaiians in 1980 are evidence for persistence of traditional native practices of sexual expression and special affection for children.
3. Shortest life expectancy of 67.6 years for Hawaiians vs. 74.2 years for the total state population in 1970 continued a trend since the first calculations in 1910.
4. Mortality rates in 1980 remained highest for pure Hawaiians for the four leading diagnosed causes of death: heart diseases, cancer, stroke, and accidents, particularly auto deaths. Rates for part Hawaiians were less, intermediate, or approximated those for non-Hawaiians. Suicide death rates were highest for Hawaiians, especially among young native males.

5. Cancer in 1977 was most prominent and rising among Hawaiians. In Hawaiian males, the most frequently involved sites of cancer were lung, stomach, esophagus, pancreas and reticulo-endothelial system. In Hawaiian females, the most involved sites were lung, breast, stomach, uterine cervix, kidney, liver-biliary system, pancreas and thyroid. Risk factors vary but include cigarette-smoking for lung cancer, obesity and high fat intake for breast cancer, and salted fish for stomach cancer.
6. Acute conditions were reported in 1980 as highest among Hawaiians and part Hawaiians, especially respiratory conditions. Chronic conditions, reported in 1977, were higher in Hawaiians for high blood pressure, diabetes, arthritis, heart trouble, stroke, asthma and chronic bronchitis. When studied, life style factors appeared to dominate over genetic and environmental factors in most of these disorders.
7. Of congenital-hereditary disorders, club foot was highest among Hawaiians, 6 times higher than for Caucasians and 10 times higher than for Orientals.
8. Dental caries were most prevalent in Hawaiian school children, and correlated with the eating of starchy foods, sweet beverages, desserts, snacks and candy.
9. Mental illness in state facilities was higher than expected among Hawaiians having transitional situational disorders, behavior disorders, mental retardation, drug abuse; and was highest in Hawaiians for mental retardation, drug abuse, "missing data," and "diagnosis deferred." This evidence suggests Hawaiians do not communicate fully with state health staff persons.
   An Alu Like pilot mental service program in a Hawaiian community proposed that Hawaiians have a unique behavior pattern stemming from "indigenous people living under a non-indigenous government," cultural conflict between traditional social values vs. modern haole individual competitive pressures, and a dominant society insensitive to Hawaiian needs.

10. Alcohol and drug abuse in 1979 affected 14.7% of the state population age 12 or older. Of these, 20.9% were Hawaiian or part Hawaiians.
11. Among the elderly interviewed in 1977, 75.9% of Hawaiians vs. 66.3% of non-Hawaiians reported major chronic illnesses, according to Alu Like.
12. Medical care of Hawaiians has not been systematically investigated. Hawaiians no longer receive free medical care at institutions founded for them: Queen's Hospital, Kapi'olani Hospital, and Lunalilo Home. In 1977, 15.7% of Hawaiians older than age 60 had no health insurance vs. 9% of non-Hawaiians, as reported by Alu Like.
13. Data on Hawaiian health professionals are grossly inadequate. In 1980, Hawaiian physicians were estimated to number less than 50 (c2.5%) of the c2,000 licensed and practicing doctors in the state.
    By 1982, the University of Hawai'i School of Medicine had graduated 39 Hawaiian MDs, 7.3% of the total of 518 graduating students since the school opened in 1967. Only one of the Hawaiian graduates in practice has found a suitable position in the Hawaiian community.
    Hawaiian nurses in the state remain unidentified and uncounted. In the University of Hawai'i School of Nursing, 7.5% of the students since 1975 have been Hawaiians. None has applied for 1983.
    Among the state Department of Health non-hospital personnel, only 2 of 34 administrators and staff public health professionals are Hawaiian.
    Since 1978, the University of Hawai'i School of Public Health has recruited 10 Hawaiian students of 32, but none has applied for admission in 1983.

Thus, Hawaiian/western-educated health professionals are sparse in their native land. Their cultural sensitivity to the plight of their fellow Hawaiians has not been reported.

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III. RECOMMENDATIONS

A. Systematic collection, recording and analysis of critical health data on Hawaiians for use in specific health benefit programs.
B. Extension of health needs assessments and research for specific health programs started by Alu Like, but now curtailed by insufficient funds.
C. Greater input by the Hawaiian community in health needs assessments, planning and implementing specific health programs. This requires improved and coordinated communication systems throughout the islands.
D. Education within the Hawaiian community:
  1. Family health learning beginning in utero and preschool, rather than excessive dependence on schools.
  2. Emphasis on self-responsibility, health-promotion, and disease-prevention through:
    a. Prudent nutrition with more fibre, restricted fat, sweets, and sodium
    b. Daily vigorous, yet enjoyable and productive, physical exertion
    c. Avoidance of tobacco, alcohol, and non-prescribed drugs
    d. Wholesome thinking and stress-coping
  3. Optimal use of available health-care resources
  4. Patient-advocacy
  5. Avoidance of excessive dependence on professionals, faddism, and commercialism.
E. Incorporation of appropriate Hawaiian values and practices into the health care system.
  1. Education of more culturally-sensitive "Hawaiian" and non-Hawaiian health professionals
  2. Placement in underserved Hawaiian communities.
F. Coordination with existing health agencies and institutions on specific health programs:
  1. For heart disease, hypertension, cancer, stroke, diabetes, kidney disease, infant and maternal care, teenage pregnancies, alcoholism, drug abuse, suicide and dental caries.
  2. Investigation of "free" medical care for needy Hawaiians at

Queen's and Kapi'olani Hospitals in accordance with their founding charters.
  3. Avoid unnecessary duplication
  4. Monitor, encourage, and if necessary, press such bodies to be sensitive to Hawaiian needs.
G. Integration of health programs with those for:
  1. Economic self-sufficiency, agriculture, fishing, education, culture, recreation, housing, energy, transportation, communication, historic sites.
  2. This recognizes that health is not separate from, but an integral part of, daily, yet long range, group as well as individual pursuit of meaningful lives in an increasingly complex society.

IV. SUMMARY

1. Prior to contact with the first foreigners, the Hawaiians were generally a healthy people, well adapted to, and reverent of, nature about them, in their pursuit of meaningful productive lives. They were remarkably free of severe contagious scourges because of their long isolation from the rest of the world, and their refined degree of personal hygiene, public sanitation and preventive measures, promoted by their psychospiritual beliefs and the kapu. However, they did have some focal infections, some of the metabolic disorders so prevalent in their descendants today, some congenital defects, and some mental illness, although they were extraordinarily hospitable, gracious and skillful in coping with stress.
   Their medical care was holistic, health-promoting, and disease-preventing with emphasis on self-responsibility, and continuous communication with the psychospiritual realm of their ancestors who had become gods and other manifestations of nature, and to which the islanders owed all.
2. Contact in 1778 and thereafter brought disaster. The Hawaiians have never recovered, for disaster continues today. Death directly and indirectly. Recurring waves of infectious epidemics, socio-politico-economic disruption and spiritual despair reduced the indigenous population from c300,000 to c40,000--when the kingdom was seized by the haole oligarchy--to 13%! Neither native nor haole medicine could halt the devastation.
3. Acceleration of Americanization, when the Hawaiians were forcibly deprived of their ruling ali'i, and their vote, in 1893, brought westernization of their health-illness profile--and more so! That is, having adopted the prevailing U.S. lifestyle the Hawaiians now rank first in their homeland with "haole illnesses"--heart diseases, hypertension, cancer, stroke, and for some, also with auto deaths, suicides, drug abuse, and "behavioral disorders."
   Dispossessed of their lands, caught in the cultural clash of traditional respect for their extended 'ohana and nature vs. pressure to survive in the competitive haole world of greed, the

natives continue to despair, for they have, indeed, become not only strangers, but the conquered, in their native land.
4. Correction of this painful assessment must begin at the source. Restoration of the Hawaiians' desire to pursue meaningful lives by returning to their lands and waters, to their reverance for nature and the spiritual realm of their ancestors, and to become self-responsible and self-sufficient.
   Integrating family and self-education in the health principles of their forebearers--prudent proper nutrition, vigorous and enjoyable work and play, avoidance of self-abuse, and wholesome image of themselves, others and nature--with programs such as agriculture, fishing, historic sites, housing, transportation, energy, and culture.
   More culturally-sensitive Hawaiians and non-Hawaiians need to be trained as health professionals and to serve in underserved Hawaiian communities, to help the people themselves launch health programs for specific medical problems, such as heart disease, cancer, drug abuse, and suicide--and for pride in themselves.

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STATE OF HAWAII
DEPARTMENT OF HEALTH

January 13, 1983

Mrs. Kina'u Boyd Kamali'i
Chairperson
Native Hawaiians Study Commission
500 University Avenue, Apt. 1601
Honolulu, Hawaii 96826

Dear Mrs. Kamali'i:

The following comments and suggestions (attached) for your draft report of the Native Hawaiians Study Commission were prepared in response to your letter of December 20, 1982 to Mr. Charles Clark, Director, Department of Health, as promised in his letter to you dated December 29, 1982.

If you have any questions about any of these figures and comments, please phone me at 548-6454.

Sincerely yours,

THOMAS A. BURCH, M.D., M.P.H.
Chief, Research and Statistics Office

Attach.

cc: Mr. Charles G. Clark

Race Designation on Department of Health Records

The race recorded on vital statistics records at the Department of Health--birth, death, and marriage certificates--is based entirely upon voluntary information and, hence, cannot be considered as indicating true genetic relationships.

The race of a child is determined from the race of the parents entered on the birth certificate in accordance with the following policies which are based upon the procedure used by the Bureau of the Census on those censuses conducted prior to 1970. If the race of both parents is the same, the child is coded as that race. If the race of both parents is not the same and either parent is designated Hawaiian or Part-Hawaiian, the child is coded Part-Hawaiian. If either parent is designated Negro or Black, the child is coded Negro. In all other mixtures, the child is coded according to the race of the father. Illegitimate births are coded according to the race of the mother.

The races coded on a marriage certificate are whatever race the bride and groom recorded when they obtained their marriage license. The race on a death certificate is whatever race the informant gave the funeral director who prepared the death certificate.

The race of an individual included in the department's household health survey is coded in accordance with the above criteria based on the race of the individual's parents as furnished by the respondent. Individuals whose parents are of different races are coded either Part-Hawaiian or Other Mixture depending upon the racial mix.

The race item on the 1970 and the 1980 United States decennial census was based entirely upon self-identification as a single race so that it is no longer possible to get counts of racial mixtures from the census. The race items from the 1970 and 1980 census are not comparable with the race designations of the Department of Health--or any other race statistics collected in Hawaii.

Birth and Death Rates

The quotation given in the first paragraph of this section on page 45 should be checked since it is not logical that depopulation resulted from a "normally" high mortality rate. It should probably read "abnormally" high mortality rate.

Infant Mortality

Change dates in table 27 to 1924-1980 and add following two columns:

	1970*	1980*
All races	19	10
Hawaiian	65	--
Part-Hawaiian	22	10
Caucasian	19	11
Chinese	18	9
Japanese	14	7
Korean	35	10
Filipino	18	12
Puerto Rican	32	6

*Department of Health Annual Report, Statistical Supplement 1970 and 1980.

Page 47, paragraph 2, line 1-- Change 1890 to 1980.

Page 47, table 28-- Change to:

RESIDENT INFANT DEATHS BY RACE OF MOTHER 1977-1981

	Births	Deaths	Rate*
All races	87,463	922	10.5 +/- 0.7
Caucasian	26,664	236	8.9 +/- 1.1
Hawaiian	707	7	9.9 +/- 7.3
Part-Hawaiian	18,606	256	13.8 +/- 1.7
Chinese	3,285	23	7.0 +/- 0.9
Filipino	14,954	137	9.2 +/- 1.4
Japanese	12,688	112	8.8 +/- 1.6
Puerto Rican	1,066	8	7.5 +/- 5.2
Korean	1,775	20	11.3 +/- 4.9
Portuguese	735	6	8.2 +/- 5.5

*Number of infant deaths per 1,000 live births +/- 95% confidence limits.

Source: Department of Health Annual Report, Statistical Supplement 1977, 1978, 1979, 1980, 1981. Confidence limits calculated by Department of Health Research and Statistics Office.

The infant death rate of Part-Hawaiians was significantly higher during the five-year period of 1977-1981 than that of Caucasians, Chinese, Filipino and Japanese. The confidence limits on the small races were so broad that their rates for that period cannot be considered significantly different from any of the larger racial groups.

Page 48, table 29, has data that are not comparable. Some data are by race of child and some are by race of mother, and some of the data include non-residents while other data do not. I have redone the table as follows:

TABLE 29

CHARACTERISTICS OF BIRTHS BY RACE OF MOTHER
HAWAII RESIDENTS 1980[1]

Race of Mother	Births	Rate Per 1000 Pop.[2]	Sex Ratio[3]	Low Birth Weight%	Illegitimate[4]
Total	18,130	19.5	1.1	7.1%	175.9
Caucasian	5,859	24.0	1.1	5.9%	133.6
Hawaiian	168	17.5	0.9	7.4%	276.1
Part-Hawaiian	3,841	23.1	1.0	7.4%	363.2
Japanese	2,655	12.2	1.1	11.8%	67.8
Chinese	704	14.9	1.0	5.8%	62.5
Filipino	3,042	20.1	1.1	9.3%	153.2

1. All data Department of Health Statistical Supplement 1980
2. Based on population totals from State of Hawaii Data Book 1981
3. Males divided by females
4. Number of illegitimate births per 1000 live births

Page 50. Add new paragraph under Leading Causes of Death:

There is considerable variation in the proportion of persons dying of various causes in the different races. The following table shows the "crude" mortality rates by race for the ten leading causes of death in Hawaii for 1980.

LEADING CAUSES OF DEATH* IN HAWAII RESIDENTS
BY RACE 1980

Condition	Caucasian	Chinese	Filipino	Hawaiian	Japanese
Diseases of Heart	163	227	144	62	179
Cancer	130	123	85	113	138
Cerebro-vascular	39	40	40	27	53
All accidents	40	27	38	41	22
Influenza/pneumonia	15	17	20	10	32
Diabetes mellitus	10	27	10	21	11
Suicide	18	5	4	10	10
Perinatal conditions	10	3	15	15	4
Cirrhosis of liver	17	5	7	3	5
Homicide	11	3	6	10	5

Source: Unpublished tables from Department of Health Research and Statistics Office

*Rates based on estimated population per 100,000 (1980 Census)

Add a new paragraph:

Incidence of Cancer

Cancer is the second leading cause of death in Hawaii and during 1980, there were 2,760 new cases of cancer diagnosed. The incidence of cancer varies markedly in the various racial groups in the State. The following table compares the "age standardized" incidence rates of selected cancers for the period 1973 through 1980. Since the incidence varies by age, the rates are "standardized" to show what the rates in the various racial groups would be, if all groups had the same age composition.

AGE STANDARDIZED INCIDENCE OF CANCER BY RACE, HAWAII 1973-1980

Race	Male			Female		
	prostate	stomach	lung	lung	breast	cervix
Caucasian	59.5	11.5	65.1	28.5	94.2	39.0
Chinese	27.1	12.5	42.6	26.6	70.3	19.9
Filipino	30.2	7.7	24.5	18.9	38.4	32.5
Hawaiian	38.3	40.2	103.1	39.7	97.8	34.2
Japanese	30.8	30.1	34.1	11.9	54.5	17.2

Source: Hawaii Tumor Registry, unpublished data.
Incidence rate per 100,000 population.
Population estimates from Health Surveillance Program of the Department of Health for 1976.

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Page 54, paragraph 1, lines 2 and 8. Change the word "incidence" to prevalence. The former indicates how many cases occurred in a given time period (one year if not specified). Prevalence indicates how many cases are present in the population at one time.

Page 61, paragraph 1, lines 2, 5, and 7. Change the word "incidence" to prevalence.

Page 64, table 30. Add the following two columns:

INTERRACIAL MARRIAGES AS PERCENTAGE OF ALL MARRIAGES
HAWAII 1912-1981

		Percent Out-Marriages	
		1970-1979	1980-1981
Hawaiian	grooms	86.6	91.2
	brides	88.7	87.0
Part-Hawaiian	grooms	57.3	56.0
	brides	58.0	58.9
Caucasian	grooms	25.9	23.8
	brides	20.7	18.1
Chinese	grooms	60.4	60.0
	brides	65.2	64.2
Japanese	grooms	33.2	39.1
	brides	40.2	44.3
Korean	grooms	60.8	47.4
	brides	82.4	76.9
Filipino	grooms	47.1	44.8
	brides	50.3	53.1
Puerto Rican	grooms	79.1	77.1
	brides	77.4	71.0
Total		38.3	36.8

Source: Department of Health, Statistical Supplements

KAHANAHOU HAWAIIAN FOUNDATION
A Non-Profit Hawaiian Cultural Corporation
[illegible]
[illegible]

30 November 1982

30

Native Hawaiian Study Commission
U. S. Department of the Interior
18th and C Streets, N.W. - Rm 6020
Washington, D. C.

Aloha!

I wish to introduce Kahanahou Hawaiian Foundation, as Hawaiian national organization embodying divisions relating to nearly every aspect of our native Hawaiian culture. Incorporated as Te Amine O Te [illegible] Hawaii [illegible], a spiritual-cultural body, in 1969, we adopted our present designation in 1975, and broadened our scope to include the native cultural, spiritual, educational, arts, and political fields.

Our Kahanahou cultural division has, since 1969, included year-round ethnic schools teaching Hawaiian language, history and traditions, native arts and crafts, sacred literature and dance, ancient implement and instrument making. And, although some classes are opened to the general public, the continuing thrust has been on the education and training of our own (Hawaiian) people, and the advancement and preservation of our native culture.

Our spiritual division, Te Amine O Te HALE O LONO, the name of which means "The Assembly of the HOUSE OF LONO," carries the sacred name of one of the three sons of god, according to Hawaiian theology. The Kahuna or "Priests" of our religion, all of whom are university graduates and trained in their spiritual work, are members of Ka Mo'o Lono or "The Order of Lono." Our religion and our priesthood are represented on all major islands, each carrying on required ministry, teaching and ritual work. Our theology and rites are taught in special classes or schools on each island. Te Amine O Te HALE O LONO's state organization is headed by native Hawaiian priest and theologian, Kahu or "Reverend" Lanakila' Brandt, B.A., D.H., D.D., headquartered in Kealakekua, South Kona, Hawaii.

An excellent example of our church's religious work was the Saturday, November 13, 1982 reconsecration and reactivation of the major temples of Hale O Keawe, Alealea Heiau, and [illegible] Heiau, all situated within the Puuhonua o Honaunau National Historical Park, South Kona, Hawaii.

The reconsecration rites and attendant Festival of Lono were accomplished as a joint project of Kahanahou Hawaiian Foundation and Puuhonua o Honaunau National Historical Park, Mr. Jerry Y. Shimoda, Superintendent. We consider it an historic instance of collaboration between an established ancient Hawaiian rite church and the National Parks Service. The entire rites were videotaped and recorded by National Parks Service, and chronicled by Kahanahou Hawaiian Foundation. All records are available for inspection.

Now, in keeping with the established purposes and goals of Kahanahou Hawaiian Foundation, we submit the following critique to your commission regarding the Draft Report of Findings published pursuant to Public Law 96-565, Title III, Section 303(c).

---

1. The Kahanahou Hawaiian Foundation is appalled that the Cultural Section of the Draft Report was not completed in time for public comment. As has been recently noted by such national publications as the New Yorker Magazine and Newsweek Magazine, the Hawaiian people are engaged in a major cultural renaissance. A great wealth of data was gathered and submitted to your commission by means of oral and written testimony, concerning the dance, music, language, literature and arts of our native people. Furthermore, numerous studies on ancient and modern aspects of the above areas of concern have been compiled by the Bernice P. Bishop Museum, Alu Like, Na Alo [illegible], and by the University of Hawaii. However, Kahanahou Hawaiian Foundation finds itself unable to comment on the Cultural Section of your Draft Report—because this entire body of material has been omitted; this entire critical area has been ignored.

2. The section purportedly dealing with Historic Preservation was a mere restatement of State and Federal laws. This section completely failed to address the practical realities involved in the enforcement of these laws. There have been countless recorded instances where natives seeking protection of religious sites have been required to fight Federal agencies—to ensure that the sites were afforded the protection guaranteed by Federal law.

One glaring example is the island of Kahoolawe, only recently placed on the National Register of Historic Sites, and then only after five years of Federal court litigation, plus years of local and state organizing and militating. Then, throughout the course of proceedings, the U. S. Navy refused to comply with the law, and falsified documents in their attempts to keep the island from being accepted for the National Register. And now, with the island on the National Register, the navy continues, with seeming impunity, to bomb our sacred temples and lands because, as their attorneys point out. . . "Inclusion on the National Register doesn't mean a site cannot be bombed."

The State Historic Preservation Plan is mentioned in the Draft Report as a functional plan currently being utilized by State agencies. This is false. The State Historic Preservation Plan HAS NOT EVEN BEEN ADOPTED INTO LAW, and has in fact been shelved for the past three years. There is no comprehensive plan adopted and utilized by the State at this time. Furthermore, the State of Hawaii has just two archaeologists and, "because of problems with staffing," they have been unable to even compile a list of historical religious sites.

3. Kahanahou Hawaiian Foundation is gravely concerned that the Religion Section has not been completed in the Draft Report. Numerous problems exist in the Hawaiian community because native religious practices are not provided for, or protected, despite the existence of a Federal law (P.L. 95-341) guaranteeing such protection.

While Kahanahou Hawaiian Foundation has, as noted in paragraphs four and five of this letter, utilized Federal areas for religious worship, in conjunction with the National Parks Service—many other native Hawaiians have been arrested and prosecuted for attempting to perform sacred rites on "public" property.

The sanctity of the First Amendment rights cannot be denied. It is inconceivable that your committee would fail to present the Draft Findings for public review. We anxiously await your amending action.

Sincerely,

Kenneth C. "[illegible]" Chun, President
KAHANAHOU HAWAIIAN FOUNDATION &
Te Amine O Te HALE O LONO
Kealakekua, Hawaii 96750

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* Indicates Founding Officer or Director

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CULTURAL COUNCIL & HALE O LONO SPIRITUAL DIVISION

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Kahu [illegible] Gay, B.A.	Kahu, Hale O Lono; educator; Member, Polynesian Voyaging Society/878 [illegible] Dr., Kailua, Oahu
Aliko Cooper, Esq.	See "Directors" above
Charles W. Kenn, Esq.	" " "

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REPLY

TO

PRELIMINARY REPORT

OF

THE NATIVE HAWAIIANS STUDY COMMISSION

HONOLULU, HAWAII
23 Nov. 1982

Colonel Arthur B. Chun
Kailua, Kona, Hawaii

PART ONE

This message response to your preliminary report is partly in telegrammatic syntax for purposes of brevity and clarity. I concur with U. S. Senator Daniel Inouye and others in open condemnation of your report as an outrageous and callous attempt in re-writing historical facts to whitewash reprehensible actions deliberately taken in 1893, by United States officials accredited to the sovereign and independent kingdom of Hawaii, in unlawfully conspiring with a small group of non-Hawaiian residents in the Kingdom of Hawaii, including some citizens of the United States -- to overthrow the indigenous and lawful government of Hawaii.

Pursuing such a conspiracy, United States Minister John L. Stevens, acting without direct authority or knowledge of the President of the United States or its Congress, caused fully armed and combat equipped Armed Forces of the United States in battalion size, to be put ashore in Honolulu and deployed tactically near the Hawaiian Palace and other government buildings, the precise character, scope, degree, and manner of which was to place United States Armed Forces in direct confrontation and to intimidate the Queen of the Hawaiian kingdom on January 16, 1893. Aided and abetted by United States officials and United States Armed Forces who lowered the Hawaiian flag over a Hawaiian government building and hoisted up the United States flag, the small group of insurgent conspirators, non-Hawaiians and citizens of the United States residing in Hawaii, formed a paper provisional government without the consent of the Hawaiian people or of the lawful government of Hawaii. Immediately thereupon, United States Minister Stevens extended diplomatic recognition to the provisional government though such provisional government was not in actual control of the kingdom of Hawaii, nor in full possession of effective power, nor with assent from the Hawaiian people, and furthermore was sustained in authority solely by the Armed Forces of the United States. For your Commission to interpret and define such heinous, indefensible actions by the United States as ceremonial and psychological, constitutes a terrible sham and flies against the true and full significance of illegitimate actions executed by the United States to cause the overthrow of the lawful sovereign kingdom of Hawaii.

Furthermore, having conspired and caused the downfall of the Hawaiian kingdom; for the United States to solely

sustain the uprising and protect the provisional government from retaliation by the lawful established government of Hawaii, constitutes further aggression against the sovereign Hawaiian Queen. One patriot Hawaiian Police officer was shot and [redacted] in the execution of his official duties, staining with his blood the shameful actions of the government of the freedom loving people of the United States.

Eleven months later, on December 19, 1893, in a historic message to the Congress, the President of the United States, Grover Cleveland, after a full and impartial investigation, responded fully and accurately on the illegal actions of the United States as an act of War, committed with the participation of a diplomatic representative and the Armed Forces of the United States and without the authority of Congress ——— directly causing the lawful government of the peaceful, friendly and confiding government of Hawaii to be overthrown.' "A substantial wrong and injury was thus done to the Hawaiian people, which, with due regard for our national character as well as the rights of the injured people, the United States should endeavor to repair." So compelling is the message of President Grover Cleveland, which should be read by every

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Hawaiian, that I quote from page 457, Appendix II, Executive Documents, 53rd Congress, 3d Session, House of Representatives, 1894-1895:

> (quote) "the United States in aiming to maintain itself as one of the most enlightened of nations would do its citizens gross injustice if it applied to its international relations any other than a high standard of honor and morality. On that ground the United States cannot properly be put in the position of countenancing a wrong after its commission any more than in that of consenting to it in advance. On that ground it cannot allow itself to refuse to redress an injury inflicted through an abuse of power by officers clothed with its authority and wearing its uniform; and on the same ground, if a feeble but friendly state is in danger of being robbed of its independence and its sovereignty by a misuse of the name and power of the United States, the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation.
>
> These principles apply to the present case with irresistible force when the special conditions of the Queen's surrender of her sovereignty are recalled. She surrendered not to the provisional government, but to the United States. She surrendered not absolutely and permanently, but temporarily and conditionally until such time as the facts could be considered by the United States.
>
> Furthermore, the provisional government acquiesced in her surrender in that manner and on those terms, not only by tacit consent, but through the positive acts of some members of that government who urged her peaceable submission, not merely to avoid bloodshed, but because she could place implicit reliance upon the justice of the United States, and that the whole subject would be finally considered at Washington." (end quote)

PART TWO

On the basis of the foregoing facts, is it therefore any wonder why I forcefully condemn the preliminary report of the Commission as outrageous and a continuation of further injustices upon the Hawaiian people. Your historical findings and conclusions seemingly appear, politically motivated to deny the Hawaiian people their righteous claim to ceded crown lands and natural resources, and reflects poorly on the moral fiber of both your commission and the present administration you represent. As to the remainder of your report, simply put — it is surplus window-dressing, interesting, with some upliftment value, but the turn-off appears earlier.

PART THREE

I recommend strongly that the three Hawaiian members of the Commission separate themselves from the majority report if such unjust findings and conclusions are allowed to stand. Better to submit a minority report reflecting the Hawaiian side of the overthrow in 1893 and President Cleveland's majestic report and strong conclusions, than to be entrapped in the majority report which does little except to further erode the dignity of the Hawaiian people and bitterly reduce their worthy cause to "nothing."

Were the same 1893 scenario to be re-enacted lifelike again in 1982 --- would not the Hawaiian commissioners join me in rising to the defense of our Queen and, if our destiny is to perish --- then loyally die for Queen and country?

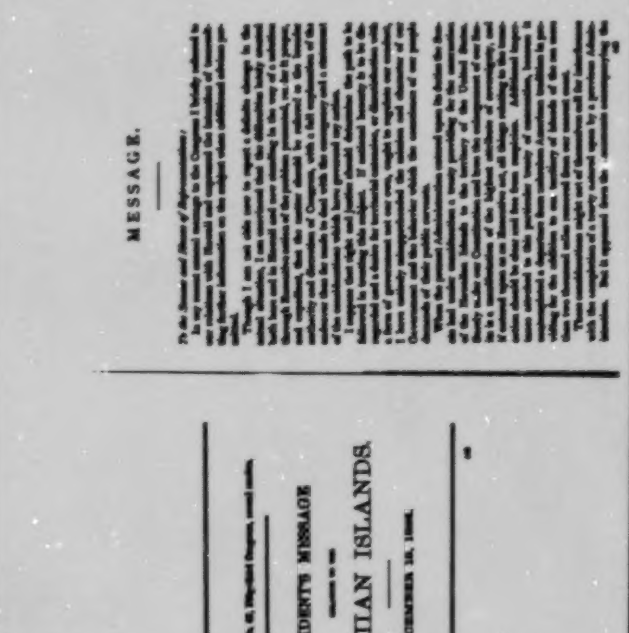
Arthur B. Chun

Arthur B. Chun
Colonel, USA (Ret'd)

Chairman, Honokohau-Kaloko
Study Commission
National Park Service
Department of the Interior
USA

P. O. Box 597
Kailua, Kona, Hawaii 96740

Enclosure - President Cleveland's
Report to Congress 1893



MESSAGE.

To the Senate and House of Representatives:

PRESIDENT'S MESSAGE

HAWAIIAN ISLANDS.

DECEMBER 18, 1893.

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treaty when submitted to the Senate, that the ownership of Hawaii was tendered to us by a provisional government set up to succeed the constitutional ruler of the islands, who had been dethroned, and it did not appear that such provisional government had the sanction of either popular revolution or suffrage. Two other remarkable features of the transaction naturally attracted attention. One was the extraordinary haste—not to say precipitancy—characterizing all the transactions connected with the treaty. It appeared that a so-called Committee of Safety, ostensibly the source of the revolt against the constitutional Government of Hawaii, was organized on Saturday, the 14th day of January; that on Monday, the 16th, the United States forces were landed at Honolulu from a naval vessel lying in its harbor; that on the 17th the scheme of a provisional government was perfected, and a proclamation naming its officers was on the same day prepared and read at the Government building; that immediately thereupon the United States Minister recognized the provisional government thus created; that two days afterwards, on the 19th day of January, commissioners representing such government sailed for this country in a steamer especially chartered for the occasion, arriving in San Francisco on the 28th day of January, and in Washington on the 3d day of February; that on the next day they had their first interview with the Secretary of State, and another on the 11th, when the treaty of annexation was practically agreed upon, and that on the 14th it was formally concluded and on the 15th transmitted to the Senate. Thus between the initiation of the scheme for a provisional government in Hawaii on the 14th day of January and the submission to the Senate of the treaty of annexation concluded with such government, the entire interval was thirty-two days, fifteen of which were spent by the Hawaiian Commissioners in their journey to Washington.

In the next place, upon the face of the papers submitted with the treaty, it clearly appeared that there was open and undetermined an issue of fact of the most vital importance. The message of the President accompanying the treaty declared that "the overthrow of the monarchy was not in any way promoted by this Government," and in a letter to the President from the Secretary of State, also submitted to the Senate with the treaty, the following passage occurs: "At the time the provisional government took possession of the Government buildings no troops or officers of the United States were present or took any part whatever in the proceedings. No public recognition was accorded to the provisional government by the United States Minister until after the Queen's abdication and when they were in effective possession of the Government buildings, the archives, the treasury, the barracks, the police station, and all the potential machinery of the Government." But a protest also accompanied said treaty, signed by the Queen and her ministers at the time she made way for the provisional government, which explicitly stated that she yielded to the superior force of the United States, whose Minister had caused United States troops to be landed at Honolulu and declared that he would support such provisional government.

The truth or falsity of this protest was surely of the first importance. If true, nothing but the concealment of its truth could induce our Government to negotiate with the semblance of a government thus created, nor could a treaty resulting from the acts stated in the protest have been knowingly deemed worthy of consideration by the Senate. Yet the truth or falsity of the protest had not been investigated.

I conceived it to be my duty therefore to withdraw the treaty from the Senate for examination, and meanwhile to cause an accurate, full, and impartial investigation to be made of the facts attending the subversion of the constitutional Government of Hawaii, and the installment in its place of the provisional government. I selected for the work of investigation the Hon. James H. Blount, of Georgia, whose service of eighteen years as a member of the House of Representatives, and whose experience as chairman of the Committee of Foreign Affairs in that body, and his consequent familiarity with international topics, joined with his high character and honorable reputation, seemed to render him peculiarly fitted for the duties entrusted to him. His report detailing his action under the instructions given to him and the conclusions derived from his investigation accompany this message.

These conclusions do not rest for their acceptance entirely upon Mr. Blount's honesty and ability as a man, nor upon his acumen and impartiality as an investigator. They are accompanied by the evidence upon which they are based, which evidence is also herewith transmitted, and from which it seems to me no other deductions could possibly be reached than those arrived at by the Commissioner.

The report with its accompanying proofs, and such other evidence as is now before the Congress or is herewith submitted, justifies in my opinion the statement that when the President was led to submit the treaty to the Senate with the declaration that "the overthrow of the monarchy was not in any way promoted by this Government", and when the Senate was induced to receive and discuss it on that basis, both President and Senate were misled.

The attempt will not be made in this communication to touch upon all the facts which throw light upon the progress and consummation of this scheme of annexation. A very brief and imperfect reference to the facts and evidence at hand will exhibit its character and the incidents in which it had its birth.

It is unnecessary to set forth the reasons which in January, 1893, led a considerable proportion of American and other foreign merchants and traders residing at Honolulu to favor the annexation of Hawaii to the United States. It is sufficient to note the fact and to observe that the project was one which was zealously promoted by the Minister representing the United States in that country. He evidently had an ardent desire that it should become a fact accomplished by his agency and during his ministry, and was not inconveniently scrupulous as to the means employed to that end. On the 19th day of November, 1892, nearly two months before the first overt act tending towards the subversion of the Hawaiian Government and the attempted transfer of Hawaiian territory to the United States, he addressed a long letter to the Secretary of State in which the case for annexation was elaborately argued, on moral, political, and economical grounds. He refers to the loss to the Hawaiian sugar interests from the operation of the McKinley bill, and the tendency to still further depreciation of sugar property unless some positive measure of relief is granted. He strongly inveighs against the existing Hawaiian Government and emphatically declares for annexation. He says: "In truth the monarchy here is an absurd anachronism. It has nothing on which it logically or legitimately stands. The feudal basis on which it once stood no longer existing, the monarchy now is only an impediment to good government—an obstruction to the prosperity and progress of the islands."

He further says: "As a crown colony of Great Britain or a Territory of the United States the government modifications could be made readily and good administration of the law secured. Destiny and the vast future interests of the United States in the Pacific clearly indicate who at no distant day must be responsible for the government of these islands. Under a territorial government they could be as easily governed as any of the existing Territories of the United States." * * * "Hawaii has reached the parting of the ways. She must now take the road which leads to Asia, or the other which outlets her in America, gives her an American civilization, and binds her to the care of American destiny." He also declares: "One of two courses seems to me absolutely necessary to be followed, either bold and vigorous measures for annexation or a 'customs union,' an ocean cable from the Californian coast to Honolulu, Pearl Harbor perpetually ceded to the United States, with an implied but not expressly stipulated American protectorate over the islands. I believe the former to be the better, that which will prove much the more advantageous to the islands, and the cheapest and least embarrassing in the end to the United States. If it was wise for the United States through Secretary Marcy thirty-eight years ago to offer to expend $100,000 to secure a treaty of annexation, it certainly can not be chimerical or unwise to expend $100,000 to secure annexation in the near future. To-day the United States has five times the wealth she possessed in 1854, and the reasons now existing for annexation are much stronger than they were then. I can not refrain from expressing the opinion with emphasis that the golden hour is near at hand."

These declarations certainly show a disposition and condition of mind, which may be usefully recalled when interpreting the significance of the Minister's conceded acts or when considering the probabilities of such conduct on his part as may not be admitted.

In this view it seems proper to also quote from a letter written by the Minister to the Secretary of State on the 8th day of March, 1892, nearly a year prior to the first step taken toward annexation. After stating the possibility that the existing Government of Hawaii might be overturned by an orderly and peaceful revolution, Minister Stevens writes as follows: "Ordinarily in like circumstances, the rule seems to be to limit the landing and movement of United States forces in foreign waters and dominion exclusively to the protection of the United States legation and of the lives and property of American citizens. But as the relations of the United States to Hawaii are exceptional, and in former years the United States officials here took somewhat exceptional action in circumstances of disorder, I desire to know how far the present Minister and naval commander may deviate from established international rules and precedents in the contingencies indicated in the first part of this dispatch."

To a minister of this temper full of zeal for annexation there seemed to arise in January, 1893, the precise opportunity for which he was watchfully waiting—an opportunity which by timely "deviation from established international rules and precedents" might be improved to successfully accomplish the great object in view; and we are quite prepared for the exultant enthusiasm with which in a letter to the State Department dated February 1, 1893, he declares: "The Hawaiian pear is now fully ripe and this is the golden hour for the United States to pluck it."

As a further illustration of the activity of this diplomatic representative, attention is called to the fact that on the day the above letter was written, apparently unable longer to restrain his ardor, he issued a proclamation whereby "in the name of the United States" he assumed the protection of the Hawaiian Islands and declared that said action was "taken pending and subject to negotiations at Washington." Of course this assumption of a protectorate was promptly disavowed by our Government, but the American flag remained over the Government building at Honolulu and the forces remained on guard until April, and after Mr. Blount's arrival on the scene, when both were removed.

A brief statement of the occurrences that led to the subversion of the constitutional Government of Hawaii in the interests of annexation to the United States will exhibit the true complexion of that transaction.

On Saturday, January 14, 1893, the Queen of Hawaii, who had been contemplating the proclamation of a new constitution, had, in deference to the wishes and remonstrances of her cabinet, renounced the project for the present at least. Taking this relinquished purpose as a basis of action, citizens of Honolulu numbering from fifty to one hundred, mostly resident aliens, met in a private office and selected a so-called Committee of Safety, composed of thirteen persons, seven of whom were foreign subjects, and consisted of five Americans, one Englishman, and one German. This committee, though its designs were not revealed, had in view nothing less than annexation to the United States, and between Saturday, the 14th, and the following Monday, the 16th of January—though exactly what action was taken may not be clearly disclosed—they were certainly in communication with the United States Minister. On Monday morning the Queen and her cabinet made public proclamation, with a notice which was specially served upon the representatives of all foreign governments, that any changes in the constitution would be sought only in the methods provided by that instrument. Nevertheless, at the call and under the auspices of the Committee of Safety, a mass meeting of citizens was held on that day to protest against the Queen's alleged illegal and unlawful proceedings and purposes. Even at this meeting the Committee of Safety continued to disguise their real purpose and contented themselves with procuring the passage of a resolution denouncing the Queen and empowering the committee to devise ways and means "to secure the permanent maintenance of law and order and the protection of life, liberty, and property in Hawaii." This meeting adjourned between three and four o'clock in the afternoon. On the same day, and immediately after such adjournment, the committee, unwilling to take further steps without the cooperation of the United States Minister, addressed him a note representing that the public safety was menaced and that lives and property were in danger, and concluded as follows: "We are unable to protect ourselves without aid, and therefore pray for the protection of the United States forces." Whatever may be thought of the other contents of this note, the absolute truth of this latter statement is incontestable. When the note was written and delivered, the committee, so far as it appears, had neither a man nor a gun at their command, and after its delivery they became so panic-stricken at their position that they sent some of their number to interview the Minister and request him not to land the United States forces till the next morning. But he replied that the troops had been ordered, and whether the committee were ready or not the landing should take place. And so it happened that on the 16th day of January, 1893, between four and five o'clock in the afternoon, a detachment of marines from the United States steamer *Boston*, with two pieces of artillery, landed at Honolulu. The men, upwards of 160 in all, were supplied with double cartridge belts filled with ammunition and with haversacks and canteens, and were accompanied by a hospital corps with stretchers and medical supplies. This military demonstration upon the soil of Honolulu was of itself an act of war, unless made either with the consent of the Government of Hawaii or for the *bona fide* purpose of protecting the imperilled lives and property of citizens of the United States. But there is no pretense of any such consent on the part of the Government of the Queen, which at that time was undisputed and was both the *de facto* and the *de jure* government. In point of fact the existing government instead of requesting the presence of an armed force protested against it. There is as little basis for the pretense that such forces were landed for the security of American life and property. If so, they would have been stationed in the vicinity of such property and so as to protect it, instead of at a distance and so as to command the Hawaiian Government building and palace. Admiral Skerrett, the officer in command of our naval force on the Pacific station, has frankly stated that in his opinion the location of the troops was inadvisable if they were landed for the protection of American citizens whose residences and places of business, as well as the legation and consulate, were in a distant part of the city, but the location selected was a wise one if the forces were landed for the purpose of supporting the provisional government. If any peril to life and property calling for any such martial array had existed, Great Britain and other foreign powers interested would not have been behind the United States in activity to protect their citizens. But they made no sign in that direction. When these armed men were landed, the city of Honolulu was in its customary orderly and peaceful condition. There was no symptom of riot or disturbance in any quarter. Men, women, and children were about the streets as usual, and nothing varied the ordinary routine or disturbed the ordinary tranquillity, except the landing of the *Boston's* marines and their march through the town to the quarters assigned them. Indeed, the fact that after having called for the landing of the United States forces on the plea of danger to life and property the Committee of Safety themselves requested the Minister to postpone action, exposed the untruthfulness of their representations of present peril to life and property. The peril they saw was an anticipation growing out of guilty intentions on their part and something which, though not then existing, they knew would certainly follow their attempt to overthrow the Government of the Queen without the aid of the United States forces.

Thus it appears that Hawaii was taken possession of by the United States forces without the consent or wish of the government of the islands, or of anybody else so far as shown, except the United States Minister.

Therefore the military occupation of Honolulu by the United States on the day mentioned was wholly without justification, either as an occupation by consent or as an occupation necessitated by dangers threatening American life and property. It must be accounted for in some other way and on some other ground, and its real motive and purpose are neither obscure nor far to seek.

The United States forces being now on the scene and favorably stationed, the committee proceeded to carry out their original scheme. They met the next morning, Tuesday, the 17th, perfected the plan of temporary government, and fixed upon its principal officers, ten of whom were drawn from the thirteen members of the Committee of Safety. Between one and two o'clock, by squads and by different routes to avoid notice, and having first taken the precaution of ascertaining whether there was any one there to oppose them, they proceeded to the Government building to proclaim the new government. No sign of opposition was manifest, and thereupon an American citizen began to read the proclamation from the steps of the Government building almost entirely without auditors. It is said that before the reading was finished quite a concourse of persons, variously estimated at from 50 to 100, some armed and some unarmed, gathered about the committee to give them aid and confidence. This statement is not important, since the one controlling factor in the whole affair was unquestionably the United States marines, who, drawn up under arms and with artillery in readiness only seventy-six yards distant, dominated the situation.

The provisional government thus proclaimed was by the terms of the proclamation "to exist until terms of union with the United States had been negotiated and agreed upon". The United States Minister, pursuant to prior agreement, recognized this government within an hour after the reading of the proclamation, and before five o'clock, in answer to an inquiry on behalf of the Queen and her cabinet, announced that he had done so.

When our Minister recognized the provisional government the only basis upon which it rested was the fact that the Committee of Safety had in the manner above stated declared it to exist. It was neither a government *de facto* nor *de jure*. That it was not in such possession of the Government property and agencies as entitled it to recognition is conclusively proved by a note found in the files of the Legation at Honolulu, addressed by the declared head of the provisional government to Minister Stevens, dated January 17, 1893, in which he acknowledges with expressions of appreciation the Minister's recognition of the provisional government, and states that it is not yet in the possession of the station house (the place where a large number of the Queen's troops were quartered), though the same had been demanded of the Queen's officers in charge. Nevertheless, this wrongful recognition by our Minister placed the Government of the Queen in a position of most perilous perplexity. On the one hand she had possession of the palace, of the barracks, and of the police station, and had at her command at least five hundred fully armed men and several pieces of artillery. Indeed, the whole military force of her kingdom was on her side and at her disposal, while the Committee of Safety, by actual search, had discovered that there were but very few arms in Honolulu that were not in the service of the Government. In this state of things if the Queen could have dealt with the insurgents alone her course would have been plain and the result unmistakable. But the United States had allied itself with her enemies, had recognized them as the true Government of Hawaii, and had put her and her adherents in the position of opposition against lawful authority. She knew that she could not withstand the power of the United States, but she believed that she might safely trust to its justice. Accordingly, some hours after the recognition of the provisional government by the United States Minister, the palace, the barracks, and the police station, with all the military resources of the country, were delivered up by the Queen upon the representation made to her that her cause would thereafter be reviewed at Washington, and while protesting that she surrendered to the superior force of the United States, whose Minister had caused United States troops to be landed at Honolulu and declared that he would support the provisional government, and that she

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government by its own declared limitation was only "to exist until terms of union with the United States of America have been negotiated and agreed upon," I hoped that after the assurance to the members of that government that such union could not be consummated I might compass a peaceful adjustment of the difficulty.

Actuated by these desires and purposes, and not unmindful of the inherent perplexities of the situation nor of the limitations upon my power, I instructed Minister Willis to advise the Queen and her supporters of my desire to aid in the restoration of the status existing before the lawless landing of the United States forces at Honolulu on the 16th of January last, if such restoration could be effected upon terms providing for clemency as well as justice to all parties concerned. The conditions suggested, as the instructions show, contemplate a general amnesty to those concerned in setting up the provisional government and a recognition of all its *bona fide* acts and obligations. In short, they require that the past should be buried, and that the restored Government should reassume its authority as if its continuity had not been interrupted. These conditions have not proved acceptable to the Queen, and though she has been informed that they will be insisted upon, and that, unless acceded to, the efforts of the President to aid in the restoration of her Government will cease, I have not thus far learned that she is willing to yield them her acquiescence. The check which my plans have thus encountered has prevented their presentation to the members of the provisional government, while unfortunate public misrepresentations of the situation and exaggerated statements of the sentiments of our people have obviously injured the prospects of successful Executive mediation.

I therefore submit this communication with its accompanying exhibits, embracing Mr. Blount's report, the evidence and statements taken by him at Honolulu, the instructions given to both Mr. Blount and Minister Willis, and correspondence connected with the affair in hand.

In commending this subject to the extended powers and wide discretion of the Congress, I desire to add the assurance that I shall be much gratified to cooperate in any legislative plan which may be devised for the solution of the problem before us which is consistent with American honor, integrity, and morality.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, December 18, 1893.

DEPARTMENT OF STATE,
Washington, October 18, 1893.

The PRESIDENT:

The full and impartial reports submitted by the Hon. James H. Blount, your special commissioner to the Hawaiian Islands, established the following facts:

Queen Liliuokalani announced her intention on Saturday, January 14, 1893, to proclaim a new constitution, but the opposition of her ministers and others induced her to speedily change her purpose and make public announcement of that fact.

At a meeting in Honolulu, late on the afternoon of that day, a so-called committee of public safety, consisting of thirteen men, being all or nearly all who were present, was appointed "to consider the situation and devise ways and means for the maintenance of the public peace and the protection of life and property," and at a meeting of this committee on the 15th, or the forenoon of the 16th of January, it was resolved amongst other things that a provisional government be created "to exist until terms of union with the United States of America have been negotiated and agreed upon." At a mass meeting which assembled at 2 p. m. on the last-named day, the Queen and her supporters were condemned and denounced, and the committee was continued and all its acts approved.

Later the same afternoon the committee addressed a letter to John L. Stevens, the American minister at Honolulu, stating that the lives and property of the people were in peril and appealing to him and the United States forces at his command for assistance. This communication concluded "we are unable to protect ourselves without aid, and therefore hope for the protection of the United States forces." On receipt of this letter Mr. Stevens requested Capt. Wiltse, commander of the U. S. S. Boston, to land a force "for the protection of the United States legation, United States consulate, and to secure the safety of American life and property." The well armed troops, accompanied by two gatling guns, were promptly landed and marched through the quiet streets of Honolulu to a public hall, previously secured by Mr. Stevens for their accommodation. This hall was just across the street from the Government building, and in plain view of the Queen's palace. The reason for thus locating the military will presently appear. The governor of the Island immediately addressed to Mr. Stevens a communication protesting against the act as an unwarranted invasion of Hawaiian soil and reminding him that the proper authorities had never denied permission to the naval forces of the United States to land for drill or any other proper purpose.

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yielded her authority to prevent collision of armed forces and loss of life and only until such time as the United States, upon the facts being presented to it, should undo the action of its representative and reinstate her in the authority she claimed as the constitutional sovereign of the Hawaiian Islands.

This protest was delivered to the chief of the provisional government, who endorsed thereon his acknowledgment of its receipt. The terms of the protest were read without dissent by those assuming to constitute the provisional government, who were certainly charged with the knowledge that the Queen instead of finally abandoning her power had appealed to the justice of the United States for reinstatement in her authority; and yet the provisional government with this unanswered protest in its hand hastened to negotiate with the United States for the permanent banishment of the Queen from power and for a sale of her kingdom.

Our country was in danger of occupying the position of having actually set up a temporary government on foreign soil for the purpose of acquiring through that agency territory which we had wrongfully put in its possession. The control of both sides of a bargain acquired in such a manner is called by a familiar and unpleasant name when found in private transactions. We are not without a precedent showing how scrupulously we avoided such accusations in former days. After the people of Texas had declared their independence of Mexico they resolved that on the acknowledgment of their independence by the United States they would seek admission into the Union. Several months after the battle of San Jacinto, by which Texan independence was practically assured and established, President Jackson declined to recognize it, alleging as one of his reasons that in the circumstances it became us "to beware of a too early movement, as it might subject us, however unjustly, to the imputation of seeking to establish the claim of our neighbors to a territory with a view to its subsequent acquisition by ourselves". This is in marked contrast with the hasty recognition of a government openly and concededly set up for the purpose of tendering to us territorial annexation.

I believe that a candid and thorough examination of the facts will force the conviction that the provisional government owes its existence to an armed invasion by the United States. Fair-minded people with the evidence before them will hardly claim that the Hawaiian Government was overthrown by the people of the islands or that the provisional government had ever existed with their consent. I do not understand that any member of this government claims that the

people would uphold it by their suffrages if they were allowed to vote on the question.

While naturally sympathizing with every effort to establish a republican form of government, it has been the settled policy of the United States to concede to people of foreign countries the same freedom and independence in the management of their domestic affairs that we have always claimed for ourselves; and it has been our practice to recognize revolutionary governments as soon as it became apparent that they were supported by the people. For illustration of this rule I need only to refer to the revolution in Brazil in 1889, when our Minister was instructed to recognize the Republic "so soon as a majority of the people of Brazil should have signified their assent to its establishment and maintenance"; to the revolution in Chile in 1891, when our Minister was directed to recognize the new government "if it was accepted by the people"; and to the revolution in Venezuela in 1892, when our recognition was accorded on condition that the new government was "fully established, in possession of the power of the nation, and accepted by the people."

As I apprehend the situation, we are brought face to face with the following conditions:

The lawful Government of Hawaii was overthrown without the drawing of a sword or the firing of a shot by a process every step of which, it may safely be asserted, is directly traceable to and dependent for its success upon the agency of the United States acting through its diplomatic and naval representatives.

But for the notorious predilections of the United States Minister for annexation, the Committee of Safety, which should be called the Committee of Annexation, would never have existed.

But for the landing of the United States forces upon false pretexts respecting the danger to life and property the committee would never have exposed themselves to the pains and penalties of treason by undertaking the subversion of the Queen's Government.

But for the presence of the United States forces in the immediate vicinity and in position to afford all needed protection and support the committee would not have proclaimed the provisional government from the steps of the Government building.

And finally, but for the lawless occupation of Honolulu under false pretexts by the United States forces, and but for Minister Stevens's recognition of the provisional government when the United States forces were its sole support and constituted its only military strength, the Queen and her Government would never have yielded to the provisional government, even for a time and for the

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GEORGE R. ARIYOSHI
GOVERNOR OF HAWAII

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 3378
HONOLULU, HAWAII 96801

CHARLES G. CLARK
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December 29, 1982

Mrs. Kina'u Boyd Kamali'i
Chairperson
Native Hawaiians Study Commission
500 University Avenue, Apt. 1601
Honolulu, Hawaii 96826

Dear Kina'u:

I have had our Research and Statistics Office go over the health section of the draft report of the Native Hawaiians Study Commission. They report that on the whole it is a very good report but do have a few corrections and additions that they feel should be made.

They recommend that:

1. There be an explanation as to how race is obtained and coded on the various records;

2. Table 28, Resident Infant Deaths by Age and Race of Mother should have "by age" deleted from the title and be expanded to show the actual number of births and deaths. There should also be a statement concerning the lack of a significant difference between the various rates;

3. The word "incidence" should be changed to "prevalence" on pages 54 and 61;

4. There should be a special section on cancer in view of its high prevalence in Hawaiians; and

5. Tables 26, 27, and 38 should be expanded to include data up through 1980.

A draft of the items recommended above is being prepared and will be sent to you as soon as it is completed. If you have any questions on this, I suggest that you call Dr. Thomas A. Burch who is chief of our department's Research and Statistics Office. He may be reached at 548-6454.

Sincerely yours,

Charles G. Clark

Charles G. Clark
Director of Health

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sole purpose of submitting her case to the enlightened justice of the United States.

Believing, therefore, that the United States could not, under the circumstances disclosed, annex the islands without justly incurring the imputation of acquiring them by unjustifiable methods, I shall not again submit the treaty of annexation to the Senate for its consideration, and in the instructions to Minister Willis, a copy of which accompanies this message, I have directed him to so inform the provisional government.

But in the present instance our duty does not, in my opinion, end with refusing to consummate this questionable transaction. It has been the boast of our Government that it seeks to do justice in all things without regard to the strength or weakness of those with whom it deals. I mistake the American people if they favor the odious doctrine that there is no such thing as international morality, that there is one law for a strong nation and another for a weak one, and that even by indirection a strong power may with impunity despoil a weak one of its territory.

By an act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress, the Government of a feeble but friendly and confiding people has been overthrown. A substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires we should endeavor to repair. The provisional government has not assumed a republican or other constitutional form, but has remained a mere executive council or oligarchy, set up without the assent of the people. It has not sought to find a permanent basis of popular support and has given no evidence of an intention to do so. Indeed, the representatives of that government assert that the people of Hawaii are unfit for popular government and frankly avow that they can be best ruled by arbitrary or despotic power.

The law of nations is founded upon reason and justice, and the rules of conduct governing individual relations between citizens or subjects of a civilized state are equally applicable as between enlightened nations. The considerations that international law is without a court for its enforcement, and that obedience to its commands practically depends upon good faith, instead of upon the mandate of a superior tribunal, only give additional sanction to the law itself and brand any deliberate infraction of it not merely as a wrong but as a disgrace. A man of true honor protects the unwritten word which binds his conscience more scrupulously, if possible, than he does the bond a breach of which subjects him to

legal liabilities; and the United States in aiming to maintain itself as one of the most enlightened of nations would do its citizens gross injustice if it applied to its international relations any other than a high standard of honor and morality. On that ground the United States can not properly be put in the position of countenancing a wrong after its commission any more than in that of consenting to it in advance. On that ground it can not allow itself to refuse to redress an injury inflicted through an abuse of power by officers clothed with its authority and wearing its uniform; and on the same ground, if a feeble but friendly state is in danger of being robbed of its independence and its sovereignty by a misuse of the name and power of the United States, the United States can not fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation.

These principles apply to the present case with irresistible force when the special conditions of the Queen's surrender of her sovereignty are recalled. She surrendered not to the provisional government, but to the United States. She surrendered not absolutely and permanently, but temporarily and conditionally until such time as the facts could be considered by the United States. Furthermore, the provisional government acquiesced in her surrender in that manner and on those terms, not only by tacit consent, but through the positive acts of some members of that government who urged her peaceable submission, not merely to avoid bloodshed, but because she could place implicit reliance upon the justice of the United States, and that the whole subject would be finally considered at Washington.

I have not, however, overlooked an incident of this unfortunate affair which remains to be mentioned. The members of the provisional government and their supporters, though not entitled to extreme sympathy, have been led to their present predicament of revolt against the Government of the Queen by the indefensible encouragement and assistance of our diplomatic representative. This fact may entitle them to claim that in our effort to rectify the wrong committed some regard should be had for their safety. This sentiment is strongly seconded by my anxiety to do nothing which would invite either harsh retaliation on the part of the Queen or violence and bloodshed in any quarter. In the belief that the Queen, as well as her enemies, would be willing to adopt such a course as would meet these conditions, and in view of the fact that both the Queen and the provisional government had at one time apparently acquiesced in a reference of the entire case to the United States Government, and considering the further fact that in any event the provisional

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November 18, 1982

Dear friends,

We, the Waianae Women's Support Group, reside in a community that has an ethnic make-up of nearly 90% Hawaiian people. We feel strongly that our review of the "Draft" Report of Findings," by the Native Hawaiian Study Commission will contribute significantly to strengthening the study.

We have just seen today for the first time the Draft Report Finding. The comprehensive 300-page report will definitely take sometime to review. We request that you seriously consider an extension in order that we, along with other organizations, can get our comments to your commission.

We thank you for the enormous task of compiling all these facts and hope we will affirm the study by our comments.

Respectfully,

M. Ho'oipo DeCambra

M. Ho'oipo DeCambra
Waianae Women's Support Group

Women's Support Group
of the Waianae Coast
87-130 St. John's Road
Waianae, Hawai'i 96792

U.S. Department of Housing and Urban Development
San Francisco Regional Office, Region IX
450 Golden Gate Avenue
P.O. Box 36003
San Francisco, California 94102

NOV 24 1982

DEC 2

Ms. Mary M. Lyon-Allen,
Executive Director
U. S. Department of the Interior
18th and "C" Streets, N.W., Rm. 6220
Washington, D.C. 20240

Dear Ms. Lyon-Allen:

This is in response to your letter of October 8, 1982, and the enclosed report of the findings of the Native Hawaiians Study Commission. Specifically, we would like to comment on the section regarding "Federal Housing Programs" contained on pages 103 and 104.

You note correctly that there are a number of statutory and HUD program regulations which are in apparent conflict with the Hawaiian Homes Commission Act legislation, as identified in our "Working Paper on the Feasibility of HUD Programs on Hawaiian Home Lands." In this regard, we would like to inform you that our Department earlier this year considered an amendment to Senate Bill S. 2361 which would have allowed FHA single-family mortgage insurance to be extended to lands administered by the Hawaiian Homes Commission for the use and benefit of persons of native Hawaiian descent.

This proposal was endorsed by both the Area Manager of the Honolulu HUD Area Office and the Regional Administrator of HUD Region IX. We would suggest that you contact the HUD Secretary's Office in Washington, D.C. to determine the progress of this proposed legislation.

Finally, as we recommended in our "working paper," the participation of HUD and other appropriate agencies in cooperatively developing statutory and program modifications to ensure that native Hawaiians are served by our programs is the best opportunity to resolve previous problems in this area. Additionally, we would hope that our recommendations as contained in the Region IX working paper are considered as you develop your own recommendations, for possible inclusion in your final report.

We look forward to the results of your efforts. If our office can be of any further assistance, please do not hesitate to call me at [illegible].

Sincerely,

Vicki Elmer

Vicki Elmer, Director
Program Planning & Evaluation, 9S

Enclosure

WORKING PAPER ON
FEASIBILITY OF USING HUD
PROGRAMS ON HAWAIIAN HOME LANDS

Office of Program Planning and Evaluation
HUD Region IX
June, 1981

Table of Contents

Topic — Page

I. Executive Summary 1

II. Background
- A. Hawaiian Homes Commission Act of 1920 4
- B. Department of Hawaiian Home Lands Housing Programs 4
- C. Hawaiian Homes Commission Lands and Homestead Applicants 6
- D. Issues Regarding DHHL Implementation 8

III. Issues Impeding Use of HUD Programs
- A. Civil Rights and Equal Opportunity Requirements 10
- B. FHA Single Family Insured Program Regulations 11
- C. FHA Administered Multifamily Programs 13

IV. Recommendations 15

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EXECUTIVE SUMMARY

I. BACKGROUND

The Hawaiian Homes Commission Act, passed by Congress in 1920 and established as part of the Hawaii State Constitution, created the Hawaiian Homes Commission (HHC) to hold, lease, and otherwise have control over approximately 203,000 acres of land exclusively for native Hawaiians. Native Hawaiians were defined, according to this legislation, as those persons with more than one-half native Hawaiian blood.

The Department of Hawaiian Homes Lands (DHHL) was also created by the Hawaiian Homes Commission Act. It was given the operational responsibility for the management and disposition of the 203,000 acres of land set-aside for native Hawaiians. The Department was authorized to develop lands for residential pastoral and agricultural purposes.

There is no private financing available currently for any of the site development or construction costs incurred by the Department. Instead, the State government has provided these funds through various mechanisms:

- Site development costs for house lots, agricultural lots and industrial lots are provided by State appropriations supported through the sale of bonds totaling over $80 million over the past six years;
- Loan monies for capitalization of the Department's home loan fund are provided by the State government through legislation;
- Farmer's Home Administration, through their Section 502 Program, provides home loans to individual native Hawaiian homesteaders. These loans have totaled in excess of $6 million in the past few years and are guaranteed by the Department of Hawaiian Home Lands thru the state government.

State-wide, over [illegible],000 homestead leases have been awarded to approximately 2,700 native Hawaiian families who are beneficiaries of the HHC Act of 1920. These families are living on a residence, farm, or ranch homestead located on the 29,000 acres currently used for homestead purposes.

Statewide, almost 7,000 applicants are on the DHHL's current waiting lists for residence, farm, or ranch homestead lands. Nearly 90 percent of the applicants have applied for residential lands.

II. ISSUE: IMPEDING USE OF HUD PROGRAMS

Up to the present time, the Hawaiian Homes Commission has not participated in the various HUD housing and community development programs, nor have individual native Hawaiians been able to qualify for insured loans under HUD's single-family insured programs if their potential home was to be located on Hawaiian Home land.

According to HUD's Honolulu Area Office, there are a number of problems which seem to inhibit HUD's program delivery to native Hawaiians seeking to establish residential homesteads on the Hawaiian Home Lands. These problems result from HUD program and statutory regulations which are in apparent conflict with the Hawaiian Homes Commission Act legislation. They may be categorized as follows:

- Civil Rights Act and HUD Equal Opportunity Regulations, which conflict with Hawaiian Homes Commission Act eligibility requirements and are inappropriate for application in the State of Hawaii;
- FHA Single Family Insured Program Regulations on marketability and transfer of leasehold interest conflict with HHC regulations restricting marketability and transfer of leasehold to native Hawaiians exclusively;
- FHA Administered Multifamily Programs regulations require an administrative agency such as a Public Housing Authority (PHA) to be present before multifamily programs can be implemented and, HHC Act is unclear regarding multi-unit development.

III. RECOMMENDATIONS

- The Regional Counsel should, in concert with the Director of FHEO, prepare a Regional legal opinion on the applicability of Congressional Civil Rights legislation to the operation of HUD programs on Hawaiian Home Lands, and submit for Central Office review.
- Region IX Program Planning and Evaluation in cooperation with the Regional Office of Housing should design the [illegible] single family insured program design that could be implemented on HHC lands for initial Office review and approval.
- The State of Hawaii and the DHHL should determine the present applicability of the [illegible] State Attorney General's

opinion on HHC development of multi-unit dwellings and establish a joint legal opinion or memorandum of understanding regarding the multi-unit development issue.

- HUD Regional Office staff should work with the Federal Regional Council and participate in the Federal-State Task Force on Hawaiian Home Lands being established by the Department of Interior to develop long-term statutory and program modifications enabling HUD program delivery on HHC lands. This Federal-State Task Force offers the best opportunity to achieve that objective.

II. BACKGROUND

A. The Hawaiian Homes Commission Act of 19[illegible]

An estimated 17 percent of the Hawaii State population, approximately 135,000 persons, are full or part Hawaiian. An estimated 30,000 persons are more than one-half native Hawaiian, and thus eligible to benefit from certain State programs designed for native Hawaiians. Of the many diverse ethnic groups in the State, native Hawaiians have one of the highest rates of poverty and unemployment. Their level of education, skill and training is among the lowest in Hawaii. Native Hawaiians represent the highest proportion of public high school dropouts and the largest group now incarcerated in the correctional facilities. Moreover, studies have shown that, as an ethnic group, native Hawaiians experience a high incidence of chronic physical and mental health conditions and have an average life span about ten years shorter than other racial groups in Hawaii.*

The Hawaiian Homes Commission Act, passed by Congress in 1920 and established as part of the Hawaii State Constitution, created the Hawaiian Homes Commission (HHC) to hold, lease, and otherwise have control over approximately 203,000 acres of land exclusively for native Hawaiians. Native Hawaiians were defined, according to this legislation, as those persons with more than one-half native Hawaiian blood.

The Department of Hawaiian Homes Lands (DHHL) was also created by the Hawaiian Homes Commission Act. It was given the operational responsibility for the management and disposition of the 203,000 acres of land set-aside for native Hawaiians. The Department was authorized to develop lands for residential pastoral and agricultural purposes.

B. Department of Hawaiian Home Lands Housing Program

The main focus of the Department over the last several years has been in the area of residential development and this has occurred in conformity with a Departmental General Plan.** Development of these lands for the residential needs of native Hawaiians customarily has entailed site work such as subdividing land parcels, providing drainage facilities,

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*See memo from U.S. Senator Dan Inouye to Moon Landrieu of 5 November 1979.

**See memo from Georgeanne Hall to U.S. Senator Dan Inouye of Hawaii and HHC General Plan.

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water and utility access and roadways. The cost of this site work is presently borne by the State government. The lessee is responsible only for payment of the mortgage on the house built on the site and a one dollar per year lease payment on the land for a lease which typically runs for a 99-year term.

There is no private financing available currently for any of the site development or construction costs incurred by the Department. Instead, the State government has provided these funds through various mechanisms:

- Site development costs for house lots, agricultural lots and industrial lots are provided by State appropriations supported through the sale of bonds totaling over $80 million over the past six years;
- Loan monies for capitalization of the Department's home loan fund are provided by the State government through legislation;
- Farmer's Home Administration, through their Section 502 Program, provides home loans to individual native Hawaiian homesteaders. These loans have totaled in excess of $6 million in the past few years and are guaranteed by the Department of Hawaiian Home Lands.

As of September, 1979, projections in the Department's General Plan call for home construction at the rate of 260 new homes per year. Due primarily to rising construction costs and the State's constitutional limitations on the incurrence of debt, construction has not been at the planned rate.

It should be noted, however, that the approximate cost of a home construction on Hawaiian Homes Lands remains far below the average cost of home construction on other lands in Hawaii. According to the Department's Deputy Director, homes are being constructed on HHC lands for $35,000 per unit.* Because interest rates on Department home loans to eligible native Hawaiians have remained a low 8-3/4 percent, and because the actual cost of home construction is essentially the only major cost borne by the program participant, monthly payments for a home are considerably lower than elsewhere on Hawaii.

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*Interview with Mervyn Jones, April, 1981. The figure represents only the cost of constructing the housing, not site development costs.

C. Hawaiian Homes Commission Lands and Homestead Applicants

In order to determine how HHC Lands were being used and the extend of demand for housing on these lands, PRC reviewed the 1980 Annual Report of the Hawaiian Homes Commission (HHC) which provides land-use summaries and data on homestead applicants. The following tables further summarize this data. Table 1 shows current land-use for the entire acreage administered by the Department of Hawaiian Homes Lands.

Table 1
Land-Use of Hawaiian Home Lands

Land-use	Acreage	%
Homestead Use:		
- Homes	2,998	1
- Farms	10,487	5
- Ranches	15,995	8
Community Pastures	1,110	**
General Lease	75,718	39
Licenses	11,970	6
Others*	73,899	38
Total Acreage	191,727	100%

Source: HHC Annual Report, June, 1980.
Land-use is as of June 30, 1980.

Table 2 shows land-use for the entire acreage administered by the Department by each island in the State.

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*This category represents acreage under Governor's Executive Orders, Unencumbered Lands, Conservation Lands, Revocable Permits, Right-of-Entries, and DLNR administered leases on DHHL land.
**Less than 1%

Table 2

Land-Use of Hawaiian Home Lands

by Island

Land-use	Island					
	Hawaii	Kauai	Maui	Molokai	Oahu	Total
Homestead	21,036	589	17	6,743	645	29,030
General Lease	50,589	316	21,680	1,272	1,861	75,718
Community Pasture	500	-	-	610	-	1,110
Licenses	628	30	6	11,234	92	11,970
Others	28,651	17,354	7,365	7,884	2,465	73,899
Totals	11,584	18,289	29,068	27,723	5,083	191,727

Source: HHC Annual Report, June, 1980.

As the above tables indicate, approximately 29,00 acres of HHC lands or 15 percent of the total are currently being used by native Hawaiian Homesteaders. Of this 29,000 acres, only 2,998 (1%) is currently being used for residential purposes. Of the HHC lands being used for homestead purposes, the vast majority of acreage is located on the "big island" of Hawaii.

State-wide, over 3,000 homestead leases have been awarded to approximately 2,700 native Hawaiian families who are beneficiaries of the HHC Act of 1920. These families are living on a residence, farm, or ranch homestead located on the 29,000 acres currently used for homestead purposes. Table 3, below, shows the number of these leases by island and type of lease.

Table 3

Homestead Leases by Island and Type

Island	Residential	Farm	Ranch
Hawaii	954	88	59
Kauai	187	1	2
Maui	89	-	-
Molokai	117	258	3
Oahu	1,644	2	-
State-wide	2,991	349	64

Source: HHC Annual Report, June, 1980.

As the above table indicates, 2,991 leases have been awarded to eligible native Hawaiians for residential purposes to date. The majority of these are located on the island of Oahu, where most of the State's population resides and where most employment is located. Most of the remaining residential leases have been located on the island of Hawaii. Very few residential leases have been located on the other three Hawaiian islands.

Probably the most important and realistic indicator of the existing demand for residential homestead acreage on HHC lands is the number of applicants for a residential leasehold on file with the DHHL. Table 4, below, shows the number of homestead applicants to the DHHL by island currently on file.

Table 4

Homestead Applicants by Island and Type

Island	Residential	Agricultural	Ranch
Hawaii	1,040	319	241
Kauai	357	71	40
Maui	443	27	17
Molokai	253	97	30
Oahu	4,005	6	0
State-wide	6,098	517	333

Source: HHC Annual Report, June, 1980.

Statewide, almost 7,000 applicants are on the DHHL's current waiting lists for residence, farm, or ranch homestead lands. Nearly 90 percent of the applicants have applied for residential lands.

D. Issues Regarding DHHL Implementation

Over the years, considerable controversy has occurred regarding the DHHL's management of HHC lands. This has resulted primarily from the Department's policies in the award of lands to leasehold and other types of Hawaiian Homes Land's applicants. At the present time, court cases are pending which challenge these policies and seek to have the HHC lands distributed immediately to all eligible native Hawaiian homestead applicants. The basis of the court challenges revolves primarily around the following facts:

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- Only about 29,000 acres of the total available Hawaiian Homes Land's acreage have been leased to native Hawaiians as homesteads while almost 6,000 native Hawaiian homestead applicants have been on the DHHL's waiting list, some for over 30 years.

- According to the 1978 HHC Annual Report, 179,592 acres of the total available Hawaiian Homes Lands were being used for non-homestead purposes; these 179,592 acres produced only $1.17 million in revenues for the DHHL, or less than $10 per acre.

- The original HHC Act of 1920 set-aside 203,000 acres for the Hawaiian Homes Lands; however, the latest HHC Reports show that only 190,500 acres are under HHC control with the balance having reverted to other uses and ownership.

Because the litigation may affect the DHHL's status as the administering agency for the HHC lands, it may have a significant impact on the future direction housing programs take on these lands also.

III. ISSUES IMPEDING USE OF HUD PROGRAMS

Up to the present time, the Hawaiian Homes Commission has not participated in the various HUD housing and community development programs, nor have individual native Hawaiians been able to qualify for insured loans under HUD's singlefamily insured programs if their potential home was to be located on Hawaiian Homes land.

According to HUD's Honolulu Area Office, there are a number of problems which seem to inhibit HUD's program delivery to native Hawaiians seeking to establish residential homesteads on the Hawaiian Home Lands. These problems result from HUD program and statutory regulations which are in apparent conflict with the Hawaiian Homes Commission Act legislation. They may be categorized as follows:

- Civil Rights Act and HUD Equal Opportunity Regulations, which conflict with Hawaiian Homes Commission Act eligibility requirements and are inappropriate for application in the State of Hawaii;

- FHA Single Family Insured Program Regulations on marketability and security of HUD insured loans on leasehold properties conflict with Hawaiian Homes Commission Act regulations limiting marketability and transfer of leasehold interest;

- FHA Administered Multifamily Programs which require an administrative agency such as a Public Housing Authority (PHA) to be present before multifamily programs can be implementation.

This chapter will examine each of these areas in greater detail, drawing on work previously done in this area by the HUD Honolulu Area Office and the Central Office in Washington, D.C.

A. Civil Rights and Equal Opportunity

Application of National Civil Rights Act legislation and HUD equal opportunity regulations in the State of Hawaii has been an issue of long standing within HUD for several years. Current definitions and categories of "minority" groups are inapplicable to Hawaii because of the ethnic and racial composition of the State. This issue will not be examined here, except as it effects HUD program delivery on Hawaiian Home Lands.

The Civil Rights Act of 1968 did not extend the recognition and protections offered to certain identified minority

groups to native Hawaiians. Subsequent HUD equal opportunity regulations did not include native Hawaiians within their guidelines. Native Hawaiians are defined as native Americans in some national legislation including Title VIII of the Community Services Act of 1976 and the Comprehensive Employment and Training Act (CETA). Like American Indians and Alaskan natives, native Hawaiians, once citizens of a sovereign nation, experienced the gradual dispossession of their lands, the progressive dilution of their culture, and a massive reduction of population from the encroachment of Europeans.

This problem is further complicated by the unique circumstances surrounding the Hawaiian Homes Commission Act of 1920. Because the Act was designed to protect and safeguard the last remaining native Hawaiian lands in an effort to ensure the survival of native Hawaiians and their culture, restrictions on the control of these lands were built into the enabling legislation. These restrictions essentially limited the [illegible] of any leasehold interest in Hawaiian Home Land solely to native Hawaiians. Non-native Hawaiians were barred from ever acquiring any permanent interest in the Hawaiian Home Lands.

Since non-native Hawaiians were banned from any residential leasehold or other permanent interest in these lands, any HUD program delivery on such lands which restricted the opportunity for non-native Hawaiians to apply for and receive program benefits on an equal basis with native Hawaiians, has been construed as a violation of the Civil Rights Act and HUD equal opportunity requirements. Therefore, no HUD program has ever been used on the Hawaiian Home Lands.

A somewhat similar situation has existed for native Americans on reservation lands in HUD Region IX. However, because native Americans were recognized as having a special legal status and were given funding set-asides in legislation which were allocated specifically for native American reservations, as in the Indian housing programs, HUD programs have been implemented on reservation lands. It must be noted that Indian reservations were excluded from the Civil Rights Act as part of the Indian Preference Statutes.

B. FHA Single Family Insured Program Regulations

Due to the unique nature of the HHC Act of 1920, the Department of Hawaiian Home Lands has to regulate alienation of real property to restrict acquisition to persons of native Hawaiian descent; transfer of title to HHC leasehold

properties must remain with an eligible native Hawaiian. Because of this, several practical barriers to the exercise of authority to insure single family home loans under 24 CFR on properties located on HHC lands appears to exist.* These may be summarized as follows:

- HHC Act statutes on conveyance of title to the residential leasehold to native Hawaiians exclusively may conflict with a broad FHA prohibition against any limitations on marketability of title;

- Similarly, the HHC Act would conflict with any insured loan contractual clause requiring that the lender have an ultimate right to elect to assign the title to the leasehold property to the Secretary of HUD;

In the event of a foreclosure on a HUD-insured leasehold mortgage, HUD would not be able to take title to the property or the leasehold interest, since the HUD is not a "native Hawaiian." Privately financed conventional home loans also are denied to native Hawaiians seeking to reside on the HHC lands because of the inability to secure a first lien on the land, as ownership does not rest with the mortgagor.

While these problems may seem insurmountable, a number of qualifications must be made. First, it must be determined whether there is or is not a broad FHA prohibition against any and all limitations on marketability of title, in the FHA single-family programs. Therefore, if limitations of any and all kinds are not specifically prohibited, certain provisions may not violate the CFR or other FHA regulations. Second, it must be determined if a clause requiring that the lender have the ultimate right to elect to assign the title to the Secretary of HUD is mandated by CFR. Or, similarly, if CFR mandates that the Secretary of HUD must maintain the ultimate right to take title to the leasehold property in the event of foreclosure.

One way to eliminate the problems noted above with regard to HHC Act prohibitions on transfer of title to property suggests an alternative loan servicing arrangement between HUD and the HHC that is similar for a FmHA arrangement with the HHC.

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*A similar issue presented itself in the Northern Mariana Islands; Central Office ultimately denied a request to issue single family home loans there.

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C. **FHA Administered Multifamily Programs**

HUD regulations require an administering agency for multifamily or rent subsidy program implementation. Usually, as in the case of the LIPH and and Section 8 Existing programs, this agency is a Public Housing Agency. However, the HHC Act, according to a 1982 State of Hawaii Attorney General's opinion, does not give the Commission or the Department of Hawaiian Home Lands the power to develop multi-unit dwellings. Without such authority, of course, neither the Commission nor the Department, even in the capacity of a PHA, can develop public housing.

According to the 1982 Attorney General's opinion: "It (the HHC Act) sets up many ways in which the Department is authorized to assist the lessee to use and improve the lot, but there is not one word about the Department doing it for him." Thus, while there is no definite prohibition against the Department of Hawaiian Home Lands assuming the role of developer of multi-unit dwellings, the Act does not specifically empower the Department to do so.

Since 1982, however, amendments to the State Constitution have greatly expanded the concept of "rehabilitation" of native Hawaiians. Rehabilitation of native Hawaiians has meant in the past that the Department of Hawaiian Home Lands was empowered to assist in the development of HHC lands. Article XII, Section 1, of the recently ratified Hawaii State Constitution expanded the concept of rehabilitation to mean:

- Development of home, agriculture, farm and ranch lots;
- Home, agriculture, aquaculture, farm and ranch loans;
- Rehabilitation projects to include, but not be limited to, educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved.

In view of the fact that legislation governing the Department of Hawaiian Home Lands may have altered the scope of its authority, the 1982 Attorney General's opinion regarding multi-unit development may be anachronistic and should be reviewed.

In the meantime, other HUD multifamily development programs exist which can be applied to the Hawaiian Home Lands' circumstances and implemented. For example, Central Office has considered the possibility of making minor program

design modifications in the Turnkey III Low-Rent Housing Homeownership Opportunities program. Unfortunately, this effort has been delegated to different HUD Field Offices and Central Office Divisions for the past year and no action has resulted. Currently, the Department's Turnkey III program specialist has been assigned the HHC Lands file and has been awaiting further direction since December 1983.

The next part of this report will present detailed recommendations which will begin to address the problems described in this Chapter.

IV. RECOMMENDATIONS

Civil Rights and Equal Opportunity Regulations

- The Regional Counsel should, in concert with the Director of FHEO, prepare a Regional legal opinion on the applicability of Congressional civil rights legislation to the operation of HUD programs on Hawaiian Home Lands, and submit for Central Office review.

  Congressional legislation which created the Hawaiian Home Lands as a condition of statehood for Hawaii also established the intent of Congress that these lands were to be used for native Hawaiians exclusively. Under the principle of statutory construction, it can be argued that Congress should therefore recognize these lands as separate entities, exempt from any application of subsequent legislation which would restrain the HHC or any Federal agency from achieving the Hawaiian Home Act's original purpose. Because the creation of the Hawaiian Home Lands was a part of the original agreement granting Statehood to Hawaii, there is even further reason to believe that this was the intent of Congress and may supercede any subsequent statutes. Other Federal agencies have interpreted the Act in this way.

FHA Single-Family Insured Programs

- Region IX Program Planning and Evaluation in cooperation with the Regional Office of Housing should [illegible] alternative single family insured program design that could be implemented on HHC lands for Central Office review and approval.

  HUD Regional Office and HUD could develop a Memorandum of Understanding with the Hawaiian Homes Commission for servicing HUD-insured loans to native Hawaiians in Hawaiian Homes Commission programs. This agreement, outlining the Department of Hawaiian Home Lands (DHHL) responsibility for supervising the leasehold mortgagor's faithful performance of the terms of the lease and for transferring the loan in the event of foreclosure to another eligible native

  Hawaiian, can be adapted from a similar FmHA agreement.* HUD could include a "buyback" in the loan agreement with the HHC. "Buyback" provisions in insured loan programs are now being used in the SFRO. One project in San Francisco, Inchon Village, contains a provision giving the City of San Francisco first option to "buyback" the property in the event of foreclosure. This arrangement, approved by Central Office, could be applied to HHC circumstances.

  HUD Regional Office should examine procedures for securing loans made on HHC lands. One suggestion is a "letter of credit" from the State of Hawaii or major banking institutions guaranteeing payback of the insured mortgage amount to HUD in the event of individual foreclosure combined with a loan servicing agreement with the DHHL would guarantee enough security to HUD.**

- The State of Hawaii and the DHHL should determine the present applicability of the HHC State Attorney General's opinion on HHC development of multi-unit dwellings and establish a joint legal opinion or memorandum of understanding regarding the multi-unit development issue.
- HUD Regional Office should work with the Federal Regional Council and participate in the [illegible]

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*Another area of concern is the existing requirement by Farmer's Home Administration (FmHA), that loans made with funds provided by them be backed by the Department's (i.e., the State's) guarantee. This guarantee is in effect a contingent liability for the State and is, therefore, counted against the State's debt ceiling. If funding through the various Federal agencies is made available to the Department without the guarantee requirement, the loan program can more readily meet the needs of the HHC without having to compete with other State agencies for financial support.

**Because there are 7,000 eligible native Hawaiians on the DHHL's waiting list, transferring the loan to another eligible native Hawaiian in case of default on original loan can easily be accomplished.

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Boyd K. Kamalii, Chrm.
Native Study Comm.
500 University Ave
Honolulu, Hawaii. 96826

Oct. 11, 1982

K. Hakakona
939 Waikalu
Honolulu, Hawaii.

Dear Chrm.:

Regarding your "Study Commission Report" up to the present day on whatever "Native Hawaiian Right" remain (if any) when most of a "Foreign Country's Soverign Right" were obtained in 1898 by the U.S. without any "Monetary Considerations" at all. Even our Country's President at the time was against such a "Take Over," as even the U.S. Constitution also spelt out the "proper process" to go about in obtaining any "Foreign Country's Soverignty Rights"

Years back the "Native Hawaiians" existed under the control of the "ROYAL CROWN or KINGDOM" which by later years had some ENGLISH KINGDOM Guidelines. The "Native Hawaiians" - being under the "Kingdom's CONTROL" with its King, Queen, & even Chiefs - had more "Soverignty Rights & Honor" then even the various U.S. Indian Tribe Clans. Thus if the U.S. considered & determined that the Indian Tribes were entitled to "MONETARY REPARRATION RIGHTS" for their "Native Rights". Then in this regards, the "NATIVE HAWAIIANS" - that were once a "Part" of a Foreign Soverign Nation" & because of its Unique & Valuable Location" should be entitled to a more valuable "NATIVE REPARRATION RIGHTS Considerations."

Sincerely:

K. Hakakona

Native Hawaiian Study Commission
Department of the Interior Building
18 th & C Sts., N.W. - Room 6220
Washington, D.C. 20240

November 20, 1982

This is my reply to N.H.S.C. draft report of findings. My main concern regarding the draft report is: WHY OMIT CHAPTER VI (F) RELIGION?????

I had developed a lengthy debate against many statements in Chapter V & VI in which the cultural descriptions present an overview more acculturated than aboriginal. Not only did this commission understate their prescribed mandate (no report on pre-contact religion) but they as well documented quite factually ethnocentricism. For example, in Chapter V (A) paragraph three suggests after a great migratory wave of Polynesians ending in the late fourteenth century, Hawaiians lived in isolation. THIS IS VERY SPECULATIVE AND NOT FACTUAL. Further along in paragraph seven, "The system had little stability andboundries were constantly changing due to wars. " This too is without fact. Boundaries never changed, even after contact Ahupua'a remain stationary, only alii moved. And in the first logs on board Cooks' ships the natural environment appeared fertile and broadly cultivated. If warfare was as extensive as historians report, the environment would show the effects and the literature does not support such a situation. These two statements are only a small example of how this commission approached a very important problem. Obviously if Ancient Hawaiian Rel'gion was reported on they two would have overtly distorted fact, only confusing the Historic atmosphere more.

Most ripped-off in this report on culture are the makaainana and the Kahuna. Religion. Toestablish creditability to my statements I have enclosures (3), newspaper articles.

(1) "HISTORIC SITES PROGRAM MIRED" there appears from an archaeogist's perspective an effort to delay and deceive.

(2) "BOARD TAKES 579 SITES OFF STATE'S HISTORIC LIST" Bulletin 3/11/80 To my knowledge most of these sites were religious in nature, i.e., heiau, fishponds, burials and caves. While the board has the power to undermine a public effort to regain access to religious sites, Hawaii keeps an image in which it states concerns for Hawaiian self-determination. State of Hawaii has done everything in it's power to keep all peoples from the Ancient Religious lands and Ancient Truths.

(3) "ISLE ARCHAEOLOGY LAGS PRECEDENCE ON OTHER AREAS" Bulletin10/01/79 "He (Yoshihiko Sinoto, head of the Bishop Museum's research department) also notes that there is no single publication on the prehistory of Hawaii before the arrival of Europeans."

Clearly some thing is dreadfully wrong in Hawaii, when the power in the State controls the rights of the people to knowledge of the past Hawaiians, their world views, lifestyles,and religious beliefs. Beleive me, an anthropologist who went through many hassles to get the data I have collected since 1972, there is a concerted effort to keep artifacts away for public scrutiny.

I say to this commission, "you have not done your job the way mandated by Public Law 96-565, thus I request the President and Congress to invalidate N.H.S.C. final report and to call for a complete anthropogical report first,before recommendations.

NativeHawaiian Study Commission
Testimony of Draft Report of Findings
By John J. Hall

November 20, 1982

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Lastly, the Office of Inspector General Audit Report clearly identifies many problems of the DHHL. How can this happen in Hawaii, misuse of money to the tune of 100,000 dollars in a nine month period?

Kimmu, I always thought you would not give Tahuna Sam Lono or his followers fair representation on the issue of freedoms to worship the Ancient Hawaiian Gods at Ancient Hawaiian Religious sites, but to omit Chapter VI (F) Religion is blatantly mishandling responsibility, answer up or........

I am very anxious to read your Final Recommendations.

[illegible] for more;

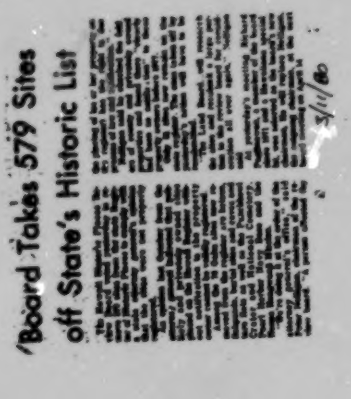
John J. Hall

John J. Hall
P.O. Box 107
Redway, CA 95560

P.S. Please send Final Report to above adress.

JJH/jjh
cc: Tahuna Sam K. Lono
President Ronald Reagon
encl: (3) NEWSPAPER ARTICLES FROM HAWAIIAN STAR BULLETINS

3



"Board Takes 579 Sites off State's Historic List

3/11/80

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Historic Sites Program Mired

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Precedence on Other Areas

Isle Archaeology Lags

[redacted]

4215 Puulani Place
Honolulu, Hawaii 96816

October 21, 1982

The Native Hawaiian Study Commission
Department of the Interior Building
18th & C Streets, N.W., Room 622
Washington, D.C. 20240

Dear Commissioners:

In response to your request for comments on your Draft Report, I enclose a copy of an article on Hawaiian reparations which will appear in the upcoming issue of the Hawaii Bar Journal. The article primarily addresses the issue which you have reserved for your final draft: Hawaiians' moral claim to reparations. However, in considering that claim I found it necessary to consider the issues of aboriginal title and recognized title which you discuss in your Draft Report.

I hope that the enclosed article will be of some assistance to you in your deliberations.

Very truly yours,

Patrick W Hanifin

Patrick W. Hanifin

PWH/da

RECEIVED 10/28/82

HAWAIIAN REPARATIONS:

NOTHING LOST, NOTHING OWED

By

Patrick W. Hanifin*

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*B.A. University of Notre Dame, 1977; J.D. Harvard, 1980; Associate, Goodsill Anderson & Quinn

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The Native Hawaiian Study Commission has released a draft report finding that Hawaiians have no present legal right to reparations.[1] Its final report will consider whether Hawaiians have any moral right to reparations. This is a matter where moral rights cannot be entirely divorced from legal rights. If no one has stolen anything which you had a legal right to, then you have no moral right to reparations for theft.

The basic thesis of this article is simple. Most Hawaiians owned no land in 1893 and had no political power. No Hawaiian lost land because of the Revolution and few permanently lost power. Those who lost nothing could claim nothing for damages; those who lost something are dead. Since there is no moral right to inherit political power, the losers' descendants have no moral right to reparations.

Reparations are payments made to correct past injustices. They should not be confused with payments made to help someone because he is poor through no fault of his own.[2] A man gets welfare because he is poor; he gets reparations because he has been wronged.[3]

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[1] Native Hawaiian Study Commission Draft Report of Findings Developed and Published for Public Comment in Accord with P.L. 96-565, title III § 303(c) (1982) [hereinafter "NHSC Draft"] at 227-243.

[2] This distinction is explained in more detail in R. Amundson Fairness and Hawaiian Native Claims in AMUNDSON, THE ISSUE OF HAWAIIAN NATIVE CLAIMS: A SOURCE BOOK 14-17 (1980).

[3] Consequently, statistics showing that the average Hawaiian is poorer than the average member of some other ethnic groups do not justify reparations. If poverty is the problem, reparations are not the remedy. Reparations would be both over- and under-inclusive: they would go to rich Hawaiians but not to poor non-Hawaiians. Opposition to Hawaiian reparations should not be mistaken for opposition to programs which assist all poor people regardless of race.

Proponents of Hawaiian reparations assume that if they can show that American intervention in the 1893 Revolution was unjust then it automatically follows that the United States government owes enormous reparations in cash, land and political power to Hawaiians.[4] The Aboriginal Lands of Hawaiian Ancestry Association (ALOHA) suggests that a billion dollars cash and several billion dollars worth of land would be a fair amount.[5] The Office of Hawaiian Affairs (OHA) has suggested that the Hawaiians may be entitled to the present value of the former Crown lands and Government lands of the Hawaiian Monarchy - over 1.75 million acres.[6] OHA has also argued that the Hawaiians are also entitled to substantial powers of self-government: roughly like Indian tribes, they should form a state within a state.[7]

The issue is whether the law should be changed to fit the opinion that Hawaiians have a moral right to reparations. If there were now a legal right to reparations the

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[4] See e.g. excerpted statements from Congressional hearings in AMUNDSON, supra n. 2. For the purposes of this article a "Hawaiian" is anyone with any Hawaiian ancestry. Since the thesis of this article is that no reparations are due to any living "Hawaiians" there is no need to consider whether people who have more Hawaiian ancestry should get more reparations than people who have less. See n. 152 infra.

[5] At ALOHA's request a bill was submitted to Congress to give Hawaiians one billion dollars in the form of a trust fund. R. Levy, Native Hawaiian Land Rights 63 CAL. L.REV. 848, 881 (1975).

[6] Reparations and Restitution: Documents Submitted to the Native Hawaiian Study Commission by the Office of the Hawaiian Affairs, 17 (1982).

[7] Id. at 5-10.

Hawaiians could have sued the U.S. government and won years ago. There would be no need for a special commission or a special act of Congress. This claim is before Congress rather than the courts because there is now no legal remedy for the alleged moral wrong.[8]

However, even assuming that American intervention in 1893 was improper, no moral right to reparations follows. Advocates of reparations have ignored at least nine other questions which must be answered before they can prove their case:

1. What did the alleged "victim" have at the time of the "theft?" If he did not have it, it could not have been stolen.

2. Of what the "victim" had, what did he have a moral right to at the time of the "theft?" If he had no moral right to it, he has no moral right to get it back or to get compensation for its loss.

3. What was taken from whom?

4. Assuming that what was taken was taken immorally, has any of it been restored?

5. If the "victim" is dead, do any of his descendants inherit his moral claim for reparation?

6. Who, if anyone, inherits it?

7. Have any benefits been received by the "victim" or his heirs as a result of the "theft"?

8. Should reparations be reduced by the amount of these benefits?

9. If people disagree on which moral principles decide these questions, how do we decide which is the true moral principle to be applied? This question is buried at the bottom of the whole discussion, for if there is no agreement on moral principle there can be no agreement that the reparations are morally due.

Since reparations proponents are the ones who are claiming billions of dollars in public money and land as well as demanding more political power, they have the burden of persuasion on all of these issues.

Any moral right to reparation from the American government rests on the theft of land or of political power or both as a result of American intervention in the Revolution of 1893.[9]

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[8] See NHSC Draft at 227-243. Karen N. Blondin suggests in A Case for Reparations for Native Hawaiians, 16 HAW B.J. Winter 1981, at 13, 16-17, 25-28 (1981), that Hawaiians are an "Indian tribe," eligible to put in a claim for lost land under the Indian Claims Commission Act, 60 Stat. 1049, 25 U.S.C. § 70 (1976). Even if Hawaiians are an "Indian tribe," despite being neither Indians nor tribal, that Act's statute of limitations expired in 1951:

> The Commission shall receive claims for a period of five years after August 13, 1946, and no claim existing before such date but not presented within such period may thereafter be submitted to any court or administrative agency for consideration, nor will such claim thereafter be entertained by the Congress. Aug. 13, 1946, c. 959, § 12, 60 Stat. 1052. 25 U.S.C. § 70k. [Emphasis added.]

If Hawaiians are an "Indian tribe" they have slept on their rights. There appears to be no reason to give them another chance for recovery which other "Indian tribes" are denied.

[9] Melody K. MacKenzie, Sovereignty and Land: Honoring the Hawaiian Native Claim (OHA, 1982) at 82-91 proposes an alternative basis for reparations: an alleged

[Footnote continued on next page]

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Nothing before 1893 counts. The claim is against the U.S. government. The government is liable only for the actions of its officers. The United States had no responsibility for non-Americans such as British Royal Navy Captain James Cook who first exposed Hawaiians to the Western World.10/ Still less was it responsible for the actions of native-born citizens of Hawaii such as Lorrin A. Thurston and Sanford Dole, the leaders of the Revolution. Nor did the American government have any responsibility to see that private American citizens in Hawaii obeyed Hawaii law.11/ It was and is up to each nation to enforce its own laws.

The only intervention in the Hawaiian Kingdom by American officials and military forces occurred during the 1893 Revolution. The day before the 1893 Revolution,

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9/ (Footnote continued from previous page)

breach of trust by the U.S. She compares the role of the U.S. as sovereign acting as trustee of tribal lands with the U.S. Government's past role as trustee of Hawaiian Homes land. A trust cannot be breached before it exists. The alleged breach of trust was American intervention in 1893 but on her analyis the trust did not begin until Congress passed the Hawaiian Homes Commission Act in 1920.

10/ If their complaint is that the Hawaiians did not adapt well to contact with the Western World, Hawaiian groups might consider taking their claim to the British Parliament since Capt. Cook was an agent of Britain sailing under British government orders to explore the Pacific and report on any islands he found.

11/ H. KELSEN, PRINCIPLES OF INTERNATIONAL LAW 196-203 (2d ed. 1967) (a state is responsible only for the authorized and unauthorized acts of its agents, and for failing to prevent private persons in its territory from injuring another state). If the American government had the duty to enforce laws in Hawaii then it must have had the privilege to use force in Hawaii; otherwise it could not have done its duty. Yet opponents of reparations deny that the American government had any privilege to intervene in Hawaii. Therefore they must agree that the U.S. government had no duty to intervene.

American Minister Stevens ordered American marines from the U.S.S. Boston to land in Honolulu, allegedly to prevent fighting which might endanger American lives or property.12/ The next day, the revolutionaries, without assistance from American troops, seized the government building.13/ Queen Liliuokalani put up no armed resistance to the takeover.14/ Minister Stevens recognized the provisional revolutionary government but did not use force or say that he would use force to support the Revolution.15/ The Queen apparently believed the presence of American troops in the city was an implied threat to use them to support the rebels.16/ She put her surrender of power in the form of a "surrender to the superior forces of the United States."17/ In 1898, America annexed Hawaii at the request of the Republic of Hawaii, a regime which came to power as a result of the successful revolution.18/ Thus, the case for reparations can be built only on the results of the 1893 Revolution.

12/ 3 R. KUYKENDALL, THE HAWAIIAN KINGDOM, 594-596 (1967). As to the events of the Revolution see generally 3 KUYKENDALL 582-605.

13/ Id. at 599-600, 602.

14/ Id. at 599-605.

15/ Id. at 601-605.

16/ Id.

17/ Id. at 603.

18/ Id. at 605-650. The Republic was created by the revolutionary leadership to "'hang on' until annexation [to America] became possible." Id. at 648. Stevens probably acted beyond his authority when he ordered the Boston's troops to land. But American annexation of Hawaii - accepting the fruits of Stevens' action - amounted to a ratification of his acts. Consequently the U.S. should be considered morally responsible for any reparations that may be due. Cf., Restatement (Second) Agency § 98.

I. Claims Arising From Alleged Theft of Land

For our purposes, there were three kinds of land in 1893: private lands, Crown lands and Government lands.

1. Private Lands

Various individual Hawaiians owned various pieces of private real estate or interests in private real estate in 1893. However, only about 5% of all Hawaiians at that time owned private land.19/ By 1893 about eighty percent of all privately owned land was owned by Caucasians.20/ Hawaiians who did not own private land could not have had it

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19/ See, THRUM'S HAWAIIAN ANNUAL 14 (1892)(giving 1890 census figures). In 1890 there were 3,466 Hawaiian and part-Hawaiian land-owners. They were 78% of all landowners in the Kingdom.

As a result of the Great Mahele of 1848, 245 konohikis (feudal landlords subordinate to the King) received quit-claims to land from the King. 1 KUYKENDALL, 287 (1938). However, some of these persons never got title to the lands because they failed to get Land Commission Awards or failed to pay the required commutation fees. As late as 1909, the government was still trying to get land claimants to acquire title to land offered to them as a result of the Mahele. Act of April 28, 1909, Act 90 § 1 1909 Haw. Sess. L. 118. Persons who did not pay the commutation fees within the alloted time (which was extended to 1895) simply did not own the land. It belonged to the government which could, and occasionally did, sell it to someone else. See Kenoa v. Meek, 6 Haw. 63 (1871), Thurston v. Bishop, 7 Haw 421 (1888). About 8205 Hawaiian commoners received kuleana grants under the Kuleana Act of 1850. Act of August 6, 1850, § 1 [1850] Haw. Laws 202 in 2 R.L.H. (1925) at 2141. Study by Marion Kelly, of the Bishop Museum cited in Levy, Native Hawaiian Land Rights, 63 CAL L.REV., 848, 856 (1975). The 1853 Census reported that there were 71,019 Hawaiians and part-Hawaiians; so only about 12% of the Hawaiians and part-Hawaiians received land as a result of the Mahele and Kuleana Act. Commoners received a total of less than 30,000 acres, less than 1% of the land in the Islands. CHINEN, THE GREAT MAHELE: HAWAII'S LAND DIVISION OF 1848, at 31 (1958).

20/ DAWS, SHOAL OF TIME, 128 (1968).

stolen from them and so could not have any claim for reparations arising from a theft of private land.

Apparently, no private land was seized as a result of the 1893 Revolution.21/ If any was seized, only its individual owner or owners would have had any moral claim to compensation for the seizure. Theft of private land, even if it occurred, could not be a basis for reparations for any significant number of Hawaiians. Thus, as to private lands there is no need to ask the other questions noted above.

2. Crown lands

The Crown lands in 1893 were neither private nor Government property. Rather than distort the picture by trying to squeeze the Crown lands into any modern legal category, it is best to look at who actually had what rights, duties, privileges and powers relating to them.22/

Justice Oliver Wendell Holmes noted that a right or other legal relationship is a prophecy of what the courts will do in fact. A "legal duty so called is nothing but a prediction that if a man does or omits certain things he will be made to suffer in this or that way by the judgment of the court; and so of a legal right."23/

21/ The only seizure of land by the revolutionaries recorded by KUYKENDALL and DAWS was the seizure of the Crown Lands discussed below.

22/ This analysis applies the fundamental legal conceptions as developed by W.N. Hohfeld. Some Fundamental Conceptions as Applied in Judicial Reasoning, 23 YALE L. J. 16 (1913), 26 YALE L.J. 710 (1917). For a general discussion of the Crown Lands see T. H. Spaulding, The Crown Lands of Hawaii, HAWAII UNIVERSITY OCCASIONAL PAPERS No. 1, (1924).

23/ O. W. Holmes, The Path of the Law, 10 HARV. L.REV. 457, 458 (1897).

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In 1893 the total area of the Crown lands amounted to approximately 971,463 acres.[24] Property interests in the Crown lands were regulated by the Acts of June 7, 1848 and of January 3, 1865 and by the 1887 Constitution of the Kingdom of Hawaii.[25] Queen Liliuokalani had a right to receive the income from the Crown lands, an income which amounted to about $50,000 per year.[26] She seems to have been able to spend the money as she wished although the act of 1865 says that the Crown lands were "for the purpose of maintaining the Royal estate and dignity."[27] However, the Queen had no control over the land itself. She had no power to lease, sell or transfer the lands or to decide how they would be used.[28]

All such decisions were made by three Crown land commissioners.[29] The commissioners who served at the time

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[24] T.H. Spaulding, The Crown Lands of Hawaii, 20, citing Report of the Commissioners of Crown Lands, 1894, p. 8. But see LILIUOKALANI, HAWAII'S STORY BY HAWAII'S QUEEN, 260 (1898((Tuttle ed. 1964) giving the figure of 915,000 acres.

[25] Act of June 7, 1848, L. 1848, p. 22, reprinted in 2 R.L.H. (1925) at 2152; Act of Jan 3, 1865, L. 1864 p. 69, reprinted in 2 R.L.H. (1925) at 2177; Constitution of 1887, reprinted in LYDECKER, ROSTER: LEGISLATURES OF HAWAII: 1841-1918 (hereinafter "LYDECKER") at 159 (1918), and in THURSTON, FUNDAMENTAL LAW OF HAWAII, 181 (1904).

[26] Act of January 3, 1865, supra. The income figure is given in LILIUOKALANI, supra, at 260.

[27] Act of January 3, 1865 2 R.L.H. (1925) at 2178. This purpose was reaffirmed in Gibson v. Soper, 5 Haw 383 (1885) and Hawaiian Government v. Cartwright, 8 Haw. 697 (1890) (per Judd, C.J.) but apparently was never used to limit the monarch's actual use of the money.

[28] Act of Jan. 3, 1865.

[29] Id.

of the Revolution had been appointed by the Queen or her predecessors but could not be removed by her.[30] Two of the three commissioners had to be cabinet members.[31] Legal title to the Crown lands was vested in the Commissioners as officials, not as individuals.[32] Suits concerning the Crown lands were brought against the commissioners, not against the Queen.[33] The commissioners had the duty, right and privilege to manage the land as they saw fit; they could lease it but could not sell it.[34] They had a duty to pay the Queen the annual income from the land.[35]

Liliuokalani could pass on neither the Crown lands nor their income to her personal heirs. When a monarch died the Crown lands passed to the next monarch.[36] The 1887 Constitution set out the rule for succession to the Crown: Liliuokalani was named in the Constitution as King

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[30] Id.

[31] Id.

[32] Harris v. Carter, 6 Haw. 195, 208-209 (1877) (per Judd, J.); Gibson v. Soper, 5 Haw. 383 (1885).

[33] E.g. Harris v. Carter, supra; Gibson v. Soper, supra, Keelikolani v. Commissioners of Crown Lands, 6 Haw. 446 (1883). All but one of the commissioners who got their names in the case reports were Caucasian: H.A.P. Carter, J. Mott Smith and J.O. Dominis in Harris v. Carter, supra; C. R. Judd, W. M. Gibson, J.M. Kapena, and J.S. Walker mentioned in Gibson v. Soper, 5 Haw. at 384-385.

[34] Act of 1865, supra, Section 4. By 1893, 752,431 acres of Crown lands and Government lands had been leased to foreigners. Levy, Native Hawaiian Land Rights, 63 CAL.L.REV. 848, 859.

[35] Act of 1865, § 4.

[36] In the Matter of the Estate of His Majesty Kamehameha IV, 2 Haw. 715 (1864); Act of 1865, supra at 2177.

Kalakaua's successor.[37] Since she had no children she had the constitutional power to nominate an heir subject to approval by the Nobles.[38] The Nobles were a group of legislators who were overwhelmingly Caucasian.[39] Liliuokalani appointed her niece Princess Kaiulani as her heir and the Nobles approved.[40]

The 1887 Constitution provided that if a monarch died childless and without a living appointed heir the legislature of the Kingdom was to elect an ali'i as monarch.[41] The legislature also occasionally passed acts (with the monarch's approval) empowering the Crown land commissioners to sell certain pieces of land.[42]

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[37] Constitution of 1887 Art. 22.

[38] Id.

[39] The qualifications and powers of the Nobles were provided for in Articles 56-59 of the 1887 Constitution. LYDECKER 165-166. The Nobles sat together in one House with the other half of the Legislature, the Representatives. 1887 Constitution Act 44; LYDECKER 164. In the 1887 legislative session 22 of 24 Nobles had Caucasian surnames; in the 1888 session 23 of 25 Nobles had Caucasian surnames; in the 1890 session 22 of 25; in the 1892 session 21 of 27. LYDECKER at 172, 175, 178, 182. Of those with Caucasian surnames approximately two, Samuel Parker and Mark P. Robinson, were part-Hawaiian. 3 KUYKENDALL 107, 558. Robinson was a Noble in the 1887 and 1888 sessions, Parker in 1890. LYDECKER, 172, 175, 178. As discussed below it two-thirds of the registered voters for Nobles were Caucasian. 3 KUYKENDALL 453.

[40] 3 KUYKENDALL 476-477.

[41] Constitution of 1887, Art. 22.

[42] E.g. Act to Authorize the Commissioners of Crown Lands to Execute a Deed of Confirmation to a Certain Lot of Land in Wailuku, Island of Maui. Act of June 23, 1868 Sess. L. 1868 p. 21. Act to Enable the Commissioners of Crown Lands to Convey Certain Parcels of Land

[Footnote continued on next page]

Thus Liliuokalani had only a right to receive the income of the Crown lands for her life. This was all she lost in 1893 when she lost the Crown. Kaiulani had only the hope of inheriting the right to receive income from the land for life if she outlived her aunt. The rest of the Hawaiians had no rights, privileges, or powers over the Crown lands, or their income at all.[43] The Crown lands themselves belonged not to any individual or to any group of individuals but to the "Crown", i.e. to the office of the Sovereign, not to the individual who wore the Crown.[44]

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[42] [Footnote continued from previous page]

Belonging to the Royal Domain, July 21, 1870 Sess. L. 1870 p. 56; Act to Enable the Commissioners of Crown Lands to Convey a Certain Parcel of Land Belonging to the Royal Domain July 29, 1872 Sess. L. 1972 p. 31; Act to Authorize the Commissioners of Crown Lands to Convey Certain Portions of Such Lands to Claus Spreckels in Satisfaction of All Claims He May Have on Such Lands. Sess. L. 1882 c. 10. For $10,000 Spreckels had bought from Princess Ruth Keelikolani, a sister of Kamehamehas IV and V, a quitclaim to all her interest in the Crown Lands. Although In re Estate of Kamehameha IV and the Act of 1865 established that the quitclaim deed was worthless, see Keelikolani v. Commissioners of Crown Lands, 6 Haw. 446 (1883), Spreckels prevailed on the Legislature and the King to give him 24,000 acres of cane land in fee simple to drop his claim. 3 KUYKENDALL 61 (1967).

[43] Of course, a lessee, whether Hawaiian or not, had a leasehold interest in the part of the Crown lands he leased, according to the terms of his lease.

[44] Liliuokalani v. U.S., 45 Ct. Claims 418,427-428 (1910):

> "They belonged to the office and not to the individual . . . . The reservations made [by King Kamehameha III in 1848] were to the Crown and not the King as an individual. The Crown lands were the resourceful methods of income to sustain in part, at least, the dignity of the office to which they were inseparably attached. When the office ceased

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Serious doubts might be raised as to whether Liliuokalani had any moral right to the Crown land income. She acquired that income by being named as the heir to the Crown in the Constitution of 1887, a document which she herself said, "was never in any way ratified, either by the people, or by their representatives, even after violence had procured the King's signature to it."[45] She had been named

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44/ [Footnote continued from previous page]

> to exist they became as other lands of the Sovereignty and passed to the defendants [the United States] as part and parcel of the public domain."

The Court of Claims followed the Hawaii Supreme Court holding In the Matter of the Estate of His Majesty Kamehameha IV, 2 Haw. 715 (1864), distinguishing Crown lands from Government lands. The Court of Claims held that the Crown lands had never been the private property of Liliuokalani because they had been neither public nor private lands before the overthrow of the monarchy. 45 Ct. Claims 426-248. When the office of monarch ceased to exist in 1893 the Crown lands became Government lands. Id at 428. The 1894 Constitution of the Republic explicitly provided that the former Crown lands were Government lands and that Liliuokalani had no rights in them. Id. Since the lands were not private property at the time the U.S. took them in 1898 the Fifth Amendment did not require that just compensation be paid to Liliuokalani. See NHSC Draft at 231. But see K. Blondin, A Case for Reparations for Native Hawaiians, 16 HAW.B.J. Winter 1981 27, interpreting Liliuokalani v. U.S. as holding that "the lands were reserved to the office of the Crown whose chief beneficiaries were the Hawaiian Nation and its people." To the contrary, the Court of Claims cited the Act of 1865 which expressly said that the beneficiary of the Crown lands' income was the individual who was monarch. 45 Ct. Claims at 426, Act of 1865, § 4. Melody K. MacKenzie, Sovereignty and Land: Honoring the Hawaiian Native Claim at 75-76 (OHA, 1982) makes an argument similar to Blondin's.

45/ LILIUOKALANI, HAWAII'S STORY 180-181. For a more detailed account of the origins of the 1887 Constitution see 3 KUYKENDALL 344-372. The 1887 Constitution was imposed on King Kalakaua by a predominantly white

[Footnote continued on next page]

as heir to the throne under the prior, defunct constitution of 1864 by her brother, Kalakaua.[46] Her nomination was approved only by the then-unelected Nobles.[47] The Constitution of 1864 was a result of a bloodless coup d'etat led by King Kamehameha V after the proposals embodied in it had been rejected by an elected constitutional convention.[48] The Crown lands in 1893 were the last remnant of lands seized by Liliuokalani's royal predecessor Kamehameha I in aggressive warfare.[49] People who believe that American title to the land today is invalid because it is founded on conquest may be hard put to explain why Liliuokalani's claim was not equally invalid. If Liliuokalani had no moral right to the income, then she had no moral right to compensation for its loss.

Liliuokalani lost the income from the Crown lands as a result of being deposed from the throne by the Revolution of 1893. The Government of the Republic of Hawaii took

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45/ [Footnote continued from previous page]

group who included many of the 1893 revolutionaries. Nevertheless, we must look at who had what under that constitution to determine who had what to lose in 1893. Since the U.S. did not help impose the 1887 Constitution it is not morally responsible for that document's effects.

46/ 3 KUYKENDALL 197.

47/ Id. When she was approved twelve or thirteen of the 21 Nobles were Caucasian. LYDECKER 136. Under the Constitutions of 1852 and 1864 Nobles were appointed by the King.

48/ 2 KUYKENDALL 127-134 (1953).

49/ In the Matter of the Estate of His Majesty Kamehameha IV 2 Haw. 715 at 725 (1864). As to the conquest of Hawaii by Kamehameha I see generally 1 KUYKENDALL 29-60 (1938) and DAWS, SHOAL OF TIME 29-44 (1968).

over the Crown lands and provided explicitly in the Constitution of the Republic that those lands were Government lands.[50] Liliuokalani's suit against the United States to recover the lands after Hawaii had become an American territory was unsuccessful.[51]

Even assuming that the former Queen had a moral right to compensation for the loss of the Crown land income, that right died with her. Princess Kaiulani predeceased the Queen by eighteen years.[52] Because the income was payable only "for the use and benefit of the Hawaiian Sovereign,"[53] the only person who could claim the income from the Crown lands now is that person who has been elected by the Legislature of the Hawaiian Kingdom as sovereign. Of course, there is no such person. Consequently, today's Hawaiians have no moral claim to reparations regarding the Crown lands.[54]

50/ Constitution of the Republic (1894) Article 95, LYDECKER p. 222.

51/ Liliuokalani v. U.S., 45 Ct. Claims 418 (1910). See n. 44 supra.

52/ H. WEBB & J.F. WEBB, KAIULANI: CROWN PRINCESS OF HAWAII, 197, 208 (1962). After Kaiulani died in 1899, the ex-Queen named Jonah Kuhio Kalanianaole and David Kawananakoa as heirs to the nonexistent throne. DAWS at 295. Since the office of Noble had been abolished along with the rest of the Monarchic government in 1893 their nomination was never confirmed by the Nobles. Article 22 of the 1887 Constitution required such confirmation before Kuhio and Kawananakoa could become the heirs to the Crown. Without it they never became heirs.

53/ Act of 1865, supra, § 4; 1887 Constitution Art. 22.

54/ There is thus no need to examine the other questions listed above at ____.

3. Government lands

As with the Crown lands, the first question is who actually had what rights, duties, privileges and powers relating to the Government lands at the time of the Revolution.

Statutes and case law established that the Government lands belonged to the Government, a legal person separate and distinct from all natural persons.[55] Day-to-day decisions about land use, sales and leasing were made by the Minister of the Interior.[56] After the establishment of

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55/ See, In the Matter of the Estate of His Majesty Kamehameha IV, 2 Haw. 715 (1864) (interpreting the Mahele between the Crown lands and Government lands and the Act of June 7, 1848, which accepted the King's grant, as vesting ownership of the Government lands in the Government and the Crown lands in the King); Harris v. Carter, 6 Haw. 195, 201 (1877) (per Judd, C.J.); Kenoa v. Meek, 6 Haw. 63 (1871); Thurston v. Bishop, 7 Haw. 421, 430 (1888). See Act of July 11, 1851 to Provide for the Appointment of Agents to Sell Government Lands to the People, 1851 Sess. Laws 52, reprinted at 2 R.L.H. (1925) 2196; Act of July 6, 1853 to Amend the Second Section of the Act to Provide for Appointment of Agents to Sell Government Lands to the People, L. 1853 p. 55, reprinted at 2 R.L.H. (1925) 2197; Disposition of Government Lands, CC 1859 §§ 39, 46, 47; Cp. L §§ 39, 46, 47, C.L. §§ 166, 174, 175, reprinted in 2 R.L.H. (1925) 2198; 1874 Sess. L. c. 24 (allowing Minister of Interior as agent for the Government to lease sell or transfer land owned by Government); 1876 Sess. L. c. 44 and 1878 Sess. L. c. 5 (regulating sale of Government land); Act to Facilitate the Acquiring and Settling of Homesteads, 1884 Sess. Laws c. [illegible] (regulating sale of government land to the people), amended by 1888 Sess. Laws c. 54 and 1890 Session Laws c. 85; Act to Determine the Status of the Landings of the Kingdom and the Rights of the Public Therein, 1892 Sess. Laws c. 46 (granting private persons the right to use government landings).

56/ See e.g. Act to Organize the Executive Departments, 1846, 1 Haw. Statute Laws pp 71, 95-109, 192, Act to Provide for the Appointment of Agents to Sell Government Lands to the People, 1851 Sess. L. 52, reprinted at 2 R.L.H. (1925) 2196; the Homestead Acts cited in

[Footnote continued on next page]

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the 1887 Constitution the Minister of the Interior was always Caucasian.[57] The Cabinet, in the exercise of its general executive authority, could make decisions about land use but could not lease or sell Government land.[58] Final power and right to decide how and when Government land was to be used, sold or leased was vested in the Legislature.[59]

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[56] [Footnote continued from previous page]

n. 55 *supra*; 1874 Sess. L. c. 24 (Minister of Interior authorized to sell, lease or transfer any land worth less than $5,000.00); 1874 Sess. L. c. 32 (Minister of Interior to take and hold land for Honolulu Waterworks; 1876 Sess. L. c. 44 and 1876 Sess. Laws c. 5 (Minister of Interior to administer public auctions of Government lands); 1884 Sess. Laws c. 37 (approving Minister's purchase of land for Molokai leper colony); 1886 Sess. L. c. 8 (Minister to auction off land escheating to Government); 1892 Sess. L. c. 44 (authorising Minister to make study of Government landings); 1892 Sess. L. c. 68 (authorising Minister to issue Royal Patents to Government lands).

[57] During most of the duration of the 1887 Constitution the Minister of the Interior was Lorrin A. Thurston, leader of the Annexationist revolutionaries. 3 KUYKENDALL 365. The other Ministers of the Interior were Charles Spencer, *id.* at 461, Charles T. Gulick, *id.* at 553, 557, and George N. Wilcox, *id.* at 557.

[58] 1887 Constitution Articles 31, 41, 78. Selling and leasing government land was the Minister of the Interior's job, see n. 56 *supra*. As the law stood at the time of the Revolution neither the Minister nor the Cabinet could sell land worth over $5,000.00. The Minister of Interior could sell land worth over $5,000.00 only if the Privy Council approved. 1874 Sess. L. c. 24. But the 1887 Constitution prohibited the Privy Council from doing anything not specifically authorized by the Constitution and selling Government land was not one of its authorized functions. 1887 Constitution Article 40. The Supreme Court held that any action which required approval of the Privy Council could not be done if the 1887 Constitution did not authorize the Privy Council to decide such matters. *In the Matter of Powers of the Cabinet as to Matters Within Control of the Privy Council*, 8 Haw. 586 (1891).

[59] 1887 Constitution Article 44. For the sort of laws which the Legislature used its authority to enact *see e.g.* the statutes cited in n. 55 and 56 *supra*.

Private individuals had no powers, rights or privileges to use Government land without Government authorisation or to decide how it was to be used.[60] Hawaiians, like any other individuals, using Government land without Government authorisation could be convicted of trespass.[61] If Hawaiians had any rights or powers regarding Government land they had only the political right and power to participate in controlling the Government.[62] Since no Hawaiian owned the Government lands in 1893, no Hawaiian had any claim for reparations due to their supposed "theft."

Advocates of reparations may argue that at least the Hawaiians inherited the Government lands or a moral claim to reparations for their loss when the Government of Hawaii ceased to exist in 1898. The change of form of government in 1893 from a monarchy to a provisional government and the further change in 1894 from the provisional government to the Republic did not alter the ownership of the land by the Government of Hawaii. Ownership changed only in 1898 when the Government of Hawaii gave the Government lands to the Government of the United States.[63] The

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[60] The Kuleana Act, 1850 Sess. Laws. p. 202, abolished the right of individual Hawaiians to grow crops and pasture animals on Government land. NHSC Draft at 230; Levy, *supra* n.34, at 857. The Government sometimes gave special statutory authorization to members of the public to use Government lands. See e.g. 1892 Session Laws c. 44 (re public use of boat landings) 1 Haw. Statute 193 (permission to cut timber and fuel on Government land in accordance with provisions of Act of November 9, 1840.

[61] *E.g.*, 1880 Session Laws p. 56.

[62] *See infra* at __________.

[63] *See* KELSON, *supra* n. 11 at 384-385.

question is whether Hawaiians in 1898, although a minority of the population of the Islands, had an exclusive moral right to inherit from the Government, even though the positive law said that they did not.

Property is a set of legal relationships among people concerning things.[64] Property interests are created and maintained by positive law: constitutions, statutes, regulations and case law. "Property and law are born and must die together. Before the laws there was no property: take away the laws, all property ceases. . . ."[65] Inheritance of property is one sort of purely legal relationship.[66] A person inherits either by will or by intestate succession. Wills are effective only because the positive law says so.[67] When a person dies without a will a statute determines who will get his property.[68] There is no inheritance except according to positive law.

Legally, the land belonging to the Hawaiian Government in 1898 has passed to the U.S. Government and to

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[64] W. N. Hohfeld, *Some Fundamental Legal Conceptions as Applied to Judicial Reasoning*, 23 YALE L.J. 16, 22-24 (1917).

[65] 1 J. BENTHAM, WORKS 309 (1859).

[66] Hohfeld, *supra* at 21.

[67] Before the Statute of Wills, 32 H. VIII c. 1 (1540), wills of land were not recognised at English common law. *See* T.F.T. PLUCKNETT, A CONCISE HISTORY OF THE COMMON LAW, 587 (5th ed. 1956) Wills in Hawaii today are governed by the Uniform Probate Code H.R.S. c. 560. H.R.S. § 560-2:501 empowers any person eighteen years or over who is of sound mind to make a will.

[68] In Hawaii this is determined by H.R.S. §§ 560:2-101 to 560:2-401.

the State of Hawaii.[69] Inheritance from the Government contrary to positive law is even more impossible than inheritance from a natural person contrary to positive law since the government is created by law (a constitution) and receives all its powers to transfer land from that law. Therefore, the Hawaiians did not inherit land from the Government of Hawaii.

To refute this analysis, reparations advocates would have to prove that there is a specific, universal, moral law of inheritance which, when applied to Hawaiian history, overrides a century of positive law and gives only the Hawaiians a moral right to Government land. Even proving that the people of a country sometimes have a right to inherit from the government is not enough. Reparations proponents must prove that the "moral law" has a racial restriction: that even though the Hawaiians were far less than half the population of Hawaii in 1898 they were somehow entitled to all of the Government land.[70]

Some have suggested that the Hawaiians had "aboriginal title" or "recognized title" to the Government and Crown lands and that these rights are inherited by

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[69] Treaty of Annexation Article II, in THURSTON, THE FUNDAMENTAL LAW OF HAWAII 244; Annexation Resolution, in THURSTON 251-252; Organic Act §§ 73, 99, Act of April 30, 1900 C. 339, 31 Stat. 141; Admission Act §§ 5, 16; Pub L. 86-3 73 Stat. 4. Some land has been sold by the U.S. or the State to private persons.

[70] In 1896, Hawaiians and part-Hawaiians were 36.24% of the population of Hawaii; in 1900 they were 25.75%. R. SCHMITT, HISTORICAL STATISTICS OF HAWAII 25 (1977).

Hawaiians today.[71] The issue is whether Hawaiians had such a property right in 1893.[72]

"Aboriginal title" is an American legal concept defining a set of legal relationships among the U.S. government, individual white Americans, and various Indian tribes living in the United States but living apart from white American society. Under the doctrine of "aboriginal title" the land on which an Indian tribe was living was owned in fee simple absolute by the United States government.[73] This fee simple ownership arose initially from discovery of the land by white Americans or by subjects of a European power which subsequently transferred its claim to the U.S.[74]

Aboriginal title "is not a property right:" the Indian tribe has only the mere "right of occupancy."[75]

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[71] Blondin, supra, n. 8; MacKenzie, supra n. 44 at pp. 64-83.

[72] The HNSC Draft looks at whether Hawaiians have aboriginal title or recognized title under American law in 1982. HNSC Draft pp. 228-239. But the issue relevant to the moral claim is whether Hawaiians in 1893 had any property right under the law of the Kingdom. If they had no such right the land could not have been stolen from them.

[73] E.g. Johnson and Graham's Lessee v M'Intosh, 8 Wheat. 543 5 L.Ed. 681 (1823), Beecher v. Wetherby, 95 U.S. 517 24 L.Ed. 440 (1877), Oneida Indian Nation of New York State v County of Oneida, 414 U.S. 661, 670, n. 6, 94 S.Ct. 772, 39 L.Ed. 2d 73, 81 (1974). The doctrine was developed from pre-Revolutionary British law. Johnson and Grahams Lessee v. M'Intosh, supra at 576-585.

[74] Johnson and Graham's Lessee v M'Intosh, supra, n. 73, Tee-Hit-Ton Indians v. U.S., 348 U.S. 272, 280 75 S.Ct. 313, 99 L.Ed. 314 (1955).

[75] Id. at 279: "This is not a property right but amounts to a right of occupancy which the sovereign grants and protects against intrusion by third parties but which right of occupancy may be terminated and such lands fully disposed of by the sovereign itself without any legally enforceable obligation to compensate the Indians."

Land held by Indians under "aboriginal title" was held collectively by the tribe, or by a subgroup of the tribe such as a clan, not by any individual Indians.[76] In Hohfeldian terms, this "right of occupancy" would be characterized as the "privilege" of the tribe to use the land as it saw fit.[77] However, this privilege did not carry with it the Hohfeldian "right" that the U.S. government not interfere with the tribe's use. The U.S. government had the exclusive right and privilege to extinguish the Indian tribe's aboriginal title by purchase or conquest.[78] The U.S. could take the land without being obliged by the Fifth Amendment to pay just compensation.[79] Purchases from Indian tribes were valid even if the Indians sold literally "under the gun."[80]

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[76] Johnson and Graham's Lessee v. M'Intosh, supra, n. 73, Tee-Hit-Ton Indians v. U.S., supra, n. 74.

[77] See Hohfeld, n. 64 supra.

[78] Tee-Hit-Ton Indians v. U.S., supra, n. 74; Johnson & Graham's Lessee v. M'Intosh, supra, n. 73; "Conquest gives a title which the courts of the conqueror cannot deny." 8 Wheat. at 588.

[79] Tee-Hit-Ton Indians v. U.S., supra, n. 74, U.S. v. Sioux Nation of Indians, 448 U.S. 371, 415, n. 29, 100 S.Ct. 2716, 65 L.Ed. 2d 844, 875. The Indian Claims Commission Act of 1946 25 U.S.C. §§ 70 et seq. permitted recovery for loss of aboriginal title under some circumstances. Otoe & Missouria Tribe of Indians v. U.S., 131 Ct. Cl. 593, 131 F.Supp. 265 (1955). But the Indian Claims Commission Act was not the law of Hawaii in 1893.

[80] Tee-Hit-Ton Indians v. U.S., supra, n. 74, 348 U.S. at 289-290: ". . . Indian occupancy, not specifically recognized as ownership by action authorized by Congress, may be extinguished by the Government without compensation. Every American schoolboy knows that the savage tribes of this continent were deprived of their ancestral ranges by force and that even when the Indians ceded millions of acres by treaty in return for blankets, food and trinkets, it was not a sale but the conquerors' will that deprived them of this land."

Consequently, even if Hawaiians had aboriginal title to the Government lands under Hawaii law in 1893 they did not have a property right and were not entitled to compensation.

"Recognized title" is similar to aboriginal title except that the government owes compensation under the Fifth Amendment for taking land held by recognized title.[81] "Recognition" means that Congress as sovereign has granted an Indian tribe the right to permanently use and occupy certain land.[82] The grant is to the tribe as a corporate entity, not to the individual Indians.[83]

Since the U.S. Congress was not sovereign in Hawaii before 1898, it could not have granted Hawaiians recognized title.[84] In none of the treaties between the U.S. and the Hawaiian Kingdom did the U.S. purport to grant any land in Hawaii to the Kingdom.[85] Nor were Hawaiians Indians.[86]

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[81] Tee Hit-Ton Indians v. U.S., supra n. 74, 348 U.S. at 277-278. Inupiat Community v. U.S., 680 F.2d 122, 128 (Ct. Cl. 1982).

[82] Id. Sac & Fox Tribe of Indians of Oklahoma v. U.S., 161 Ct. Cl. 189, 197 (1963), cert. denied 375 U.S. 921 (1963).

[83] E.g., Fleming v. McCurtain, 215 U.S. 56, 54 L.Ed. 88 (1909)(per Holmes, J.)

[84] HNSC Draft 234.

[85] HNSC Draft 234-235. The treaties covered only friendship, navigation, commerce and tariffs. Id.

[86] 1 ENCYCLOPEDIA BRITANNICA 305 (1981) defines "American Indians" as "a group of human populations (local races and microraces) of North America and South America and the Caribbean islands."

[Footnote continued on next page]

But perhaps there was an equivalent doctrine in 1893 Hawaiian law in which the Hawaiian Government had played Congress' role as sovereign and the Hawaiians played Indians. Did the Hawaiian Government recognize a "Hawaiian tribe's" title to the Government lands?

There was no express mention of any doctrine of recognized title in the law of the Hawaiian Monarchy.

This is not surprising. There was no place and no need for recognized title. The doctrine was created for and existed in a situation in which a powerful, dominant, Western society with a Western legal and political system was pushing into land held by weak, primitive, non-Western tribes operating with only "customary law." The tribes existed on the margins--geographically and politically--of the dominant society. The doctrines of recognized title and aboriginal title existed to satisfy the contradictory

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[86] [Footnote continued from previous page]

This accords with the anthropological definition. See e.g. A.M. JOSEPHY, THE INDIAN HERITAGE OF AMERICA, 26-29 (1968); P. FARB, MAN'S RISE TO CIVILIZATION AS SHOWN BY THE INDIANS OF NORTH AMERICA FROM PRIMEVAL TIMES TO THE COMING OF THE INDUSTRIAL STATE, 235-273 (1968). The Interior Department's regulations for recognizing a group to be an "Indian tribe" include the requirements that the group be within the continental U.S. and descended from aboriginal inhabitants of the continental U.S.; and that it be recognized as an Indian entity by anthropologists, historians and other scholars. 25 C.F.R. §§ 54.1, 54.3, 54.4, 54.7. In U.S. v. Native Village of Unalakleet, 411 F.2d 1255, 1257 (Ct. Clms. 1969) the court defined "Indians" to include all "the descendants of any pre-Columbian inhabitants of North America." Blondin, supra n. 8 at 28 suggests that excluding Hawaiians from the class of "Indians" may violate the Fourteenth Amendment's ban on racial classifications. However, she proposes a racial classification that would leave out whites, blacks and Orientals.

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desire of the dominant society to grab all the land that was worth grabbing, yet salve its conscience by giving the tribes a minimally fair deal.

In Hawaii in 1893 there were no marginal tribes. The Hawaiians were not and never had been tribal.[87] They were the largest part of the society and a majority of the electorate. They had long since adopted the Western political system of constitutional monarchy and much Western culture. The Kingdom had adopted the Anglo-American common law.[88] The Government already owned the Government land; it had no need to grab it.

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[87] For the anthropological definition of a tribe see FRIED, *supra* n. 86, at 104-107. Notably, a tribe "is egalitarian; there are still no full-time specialists such as soldiers, artisans, priests, or political office-holders. . . . The tribe . . . possesses no strong political organization or permanent office of control. . . ." *Id.* Compare 1 KUYKENDALL 7-10 (1938); D. MALO, HAWAIIAN ANTIQUITIES 52-72, 187-203 (1898 ed.); M. Kelly, *Changes in Land Tenure in Hawaii 1778-1850*, at 27-49 (1956) (master's thesis in University of Hawaii library), on the far more complex and aristocratic, social and political organization of pre-contact Hawaii. The legal definition of a tribe is set out in 25 C.F.R. §§ 54.1, 54.7. And see F. COHEN, HANDBOOK OF FEDERAL INDIAN LAW, 268-272 (1971 reprint of 1941 ed.).

[88] *See e.g. Oni v. Meek*, 2 Haw. 87 (1858) *Keelikolani v. Robinson*, 2 Haw. 522, *aff'd* 2 Haw. 540, 546-48 (1862); Principles Adopted by the Board of Commissioners to Quiet Land Titles in their Adjudication of Claims Presented to Them, L. 1847, p. 81 reprinted at 2 R.L.H. (1925) 2124 and ratified and adopted as statute law, L. 1847 p. 94 reprinted at 2 R.L.H. (1925) 2137. CHINEN *supra* n. 19 at 15-31; 1 KUYKENDALL 269-298; DAWS 124-128. All the real property cases in the first eight volumes of the Hawaii Reports make it clear that the Anglo-American common law of property was adopted as the property law of the Hawaiian Kingdom. *See e.g., In the Matter of the Estate of His Majesty Kamehameha IV*, 2 Haw. 715 (1864) (adoption of common law rules of dower). H.R.S. § 1-1 (adopted in 1892) made the English and American common law the common law of Hawaii except where it was contrary to the Constitution or laws of Hawaii, or Hawaiian precedent or usage.

If the pure form of recognized title did not exist openly, was some "quasi-" form secreted in Hawaiian law? Proponents of reparations have suggested three quasi-recognitions of collective Hawaiian title: the 1840 Constitution; King Kamehameha III's Mahele Grant to the Government; and the Legislature's acceptance of the granted lands.[89]

The Kingdom's Constitution of 1840 declared that to "Kamehameha I . . . belonged all the land from one end of the Islands to the other, though it was not his own private property. It belonged to the chiefs and people in common of whom Kamehameha was the head and had the management of the landed property."[90] The Constitution went on to provide that Kamehameha III had succeeded to Kamehameha I's position and prerogatives.[91]

The 1840 Constitution is no support for extending recognized title doctrine to Hawaii. It was repealed in 1852 and by 1893 had been a dead letter for 41 years.[92]

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[89] Blondin, *supra* n. 8 at 29-30; MacKenzie, *supra* n. 44 at 73-74, 81.

[90] LYDECKER, *supra* n. 35, at 9-10. There were no legal limits on Kamehameha I's power. *Cf.* Holmes, *supra* n. 23. Compare Constitution of the Hawaiian Republic Art. 95, LYDECKER at 222, stating that the Crown lands had always been Government lands and would continue to be. Both constitutional provisions seem to be instances of a new regime trying to butress its authority by claiming to be only a continuation of the old.

[91] LYDECKER at 10.

[92] *See* Constitution of 1852, set out at THURSTON 193 and LYDECKER 3a, which repealed and replaced the 1840 Constitution. *See* 1 KUYKENDALL 266-268 (1938) for the history of the change of constitutions. The 1852 Constitution was the only one of the four constitutions of the Kingdom which was approved by elected representatives of the people before its adoption.

The Constitution of 1852, which replaced it, had no provision recognizing common rights to land, nor did the Constitution of 1887, which was in effect in 1893.

Even before the 1852 Constitution was adopted, the Mahele separated the various undivided interests in each piece of land.[93] The Principles of the Land Commissioners, was the official and authoritative gloss on the reference to common rights in the 1840 Constitution as well as on the old land customs and new land law.[94] The commissioners, interpreting the ancient customs of land holding, explained that the King owned an undivided interest in all the land of Hawaii, approximating one-third of its total value.[95] Each konohiki owned an approximate one-third undivided interest only in that particular piece of land to which the King had given him feudal rights.[96] Each tenant had an approximate one-third undivided interest only in the particular piece of land which he farmed.[97] The theory that every Hawaiian

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[93] Levy, *supra*, n. 34 at 854-855; Morris, *The Land System of Hawaii*, 21 A.B.A. JOURNAL 649, 650 (1935); NHSC Draft 229.

[94] Principles Adopted by the Board of Commissioners to Quiet Land Titles in Their Adjudication of Claims Presented to Them, L.1847 p. 81, reprinted at 2 R.L.H. (1925) 2124 and adopted as statute law L.1847 p. 24, reprinted at 2 R.L.H. (1925) 2137. *See* CHINEN, *supra* n. 19 at 8-12.

[95] *Id.*

[96] *Id.*

[97] *Id.* An Act Confirming Certain Resolutions of the King and Privy Council, Passed on the 21st Day of December A.D. 1849, Granting to the Common People Allodial Titles For their Own Lands and House Lots and Certain Other Privileges, L. 1850 p. 202, reprinted at 2 R.L.H. (1925) 2141; CHINEN *supra* n. 19 29-31 (native tenants required to prove that they actually cultivated the lands they claimed and consequently only about 30,000 acres, less than 1% of the land in the Islands went to tenants.)

owned an undivided interest in every square inch of Hawaii is simply wrong.[98] Moreover, as a result of the land reforms of the 1840's Hawaii adopted the Anglo-American common law of property.[99]

During the Mahele the King conveyed most of his share of the lands to the Government.[100] The conveyance says that the King was giving "to the chiefs and people the larger part of my royal land, for the use and benefit of the Hawaiian Government."[101] The legislature in the act of June 7, 1848 accepted the gift, saying that the land had been

> made over to his chiefs and people in the keeping of the House of Nobles and Representatives or such person or persons as they may from time to time appoint, to be disposed of in such manner as the House of Nobles and Representatives may direct, and as may best promote the prosperity of this Kingdom and the dignity of the Hawaiian Crown. . . ."[102]

By statute the legislature, "declared these lands to be set apart as the lands of the Hawaiian Government".[103]

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[98] The idea that as a result of the Mahele all the lands of the Kingdom were divided into three parts, one-third to the King, one-third to the chiefs and one-third to the commoners is "wholly erroneous." 1 KUYKENDALL 282 (1938).

[99] See n. 88 *supra*.

[100] *In the Matter of the Estate of His Majesty Kamehameha IV*, 2 Haw. 715, 722 (1864).

[101] MAHELE BOOK, translated by Court *In the Matter of the Estate of His Majesty Kamehameha IV*, 2 Haw 715, 723 (1864). Read literally, this would have made the chiefs and people the trustees for the Government.

[102] Act of June 7, 1848.

[103] *Id.*

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Both Kamehameha III and the legislature used the phrase "chiefs and people" as legally interchangeable with "the Hawaiian Government."[104] The Hawaii Supreme Court during the Monarchy repeatedly interpreted the King's grant and the Legislature's acceptance of it as vesting land ownership in the Government alone.[105] Statutes passed during the Monarchy confirm this view.[106]

If the Hawaiians as a group had recognized title to Government land then the Government would have been required to compensate them every time it sold, leased or used any Government land. But it did not do so and was never required by law to do so.

No nineteenth century precedents recognize any judicially enforceable duty of the Government to act as trustee of the land for the Hawaiians. A beneficiary has a property interest in a trust because if the trustee violates his fiduciary duty the court will order the trustee to cease the violation and to pay for the damage he did.[107] But there are no reported cases during the monarchy in which a Hawaiian successfully challenged in court a government action regarding the Government lands as a violation of the Government's supposed fiduciary duty. If a citizen disliked a use or sale of government land his only recourse was to try to get the responsible government officials voted out of office.[108]

If the Hawaiians as a separate group did not hold collective recognized title to the Government land perhaps the Hawaiian Government was itself the "tribe" which had recognized title.

The Kingdom of Hawaii was not a tribe; it was a sovereign state, modeled on Britain, and was a foreign state as far as the U.S. was concerned.[109] A tribe is not a foreign state,[110] so a foreign state is not a tribe. Tribesmen are tribesmen because their parents were tribesmen.[111] But under the laws and 1887 Constitution of the Kingdom a person did not need to be an ethnic Hawaiian to be a citizen of the Kingdom nor did he need to be a citizen to vote.[112]

The doctrine of recognized title makes sense only if there is a sovereign state distinct from the tribe whose title the sovereign recognizes.[113] Since the Hawaiian Government was the sovereign it could not also have been the "tribe."

Ultimately, the attempt to squeeze recognized title doctrine into Hawaiian law boils down to the trivial truism that the Hawaiian Government owned the Government lands. We have already seen that the Government was a legal person separate from the individual Hawaiians, singly or collectively.[114] And we have seen that the Hawaiians did not "inherit" land from the Government.[115]

"When you ain't got nothing you got nothing to lose."[116] Since the Hawaiians had no recognized title to land in 1893 they could not have such title stolen from them. Their descendents today cannot claim reparations for theft of land held by recognized title.[117]

II. Claims Arising From Loss of Political Power

If the Hawaiians of 1893 had anything stolen from them for which reparations are due to their descendents today, it could only have been political power.[118]

What political rights and power did the Hawaiians of 1893 have to control the Government of the Kingdom, particularly with regard to land use? Most had none at all and those who had some had more than they morally deserved.

Four classes of political power-holders can be distinguished in the Hawaiian Kingdom in 1893: (1) Queen Liliuokalani; (2) the cabinet ministers; (3) legislators; and (4) voters. The majority of people in Hawaii in 1893 fell into the powerless group of nonvoters.

The Queen's powers were essentially restricted to the power to appoint cabinet ministers to fill vacancies and the power to veto legislation subject to an override by two-thirds of the legislature.[119] Apart from these powers, the Queen could act only on the advice of her cabinet and could not refuse to act if a majority of the cabinet told

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[104] Id. and King's Mahele Grant.

[105] See cases cited in n. 55 supra.

[106] See statutes cited in n. 55 supra.

[107] See 3 SCOTT, THE LAW OF TRUSTS §§ 197-226 (3d ed. 1967); Holmes supra n. 23.

[108] See infra at __________. Most citizens could not vote.

[109] MacKenzie, supra n. 44, at 50, 81.

[110] Cherokee Nation v. Georgia, 5 Pet.1 (1831), Santa Clara Pueblo v. Martinez, 436 U.S. 49, 123, 98 S.Ct. 1670, 56 L.Ed. 2d 106, 123 (1978).

[111] Montoya v. U.S., 180 U.S. 261, 265, 21 S.Ct. 358, 45 L.Ed. 521, 523 (1901) (a "tribe" is a body of Indians of the same or similar race). Some tribes allowed white men who married Indians to become tribesmen, COHEN, supra n. 87 at 3-5.

[112] Naturalization of foreigners was provided for in 1884 Compiled Laws §§ 428-434 as amended by 1887 Sess. L. c. 10 and 1890 Sess. L. c. 24. Voter qualifications are discussed below at ____; being ethnically Hawaiian was not required. Constitution of 1887, Articles 59 and 62.

[113] But see MacKenzie, supra n. 44, at 81, apparently suggesting that the Hawaiian Government was both the "tribe" and the sovereign state recognizing the tribe's title.

[114] Supra at _______.

[115] Supra at _______. Cf. Fleming v. McCurtain, 215 U.S. 56, 54 U.S. 88 (1909) (individual Indians could not inherit from a defunct tribe).

[116] Bob Dylan, "Like a Rolling Stone."

[117] It is therefore unnecessary to discuss any of the other questions listed above at ________.

[118] The NHSC Draft at 236-239 and MacKenzie, supra n. 44 at 57-64 discusses this notion under the heading of "loss of sovereignty." The Government of Hawaii was the sovereign and remained the sovereign until its powers passed to the U.S. Government in 1898. The real issue is who had the political power to control the sovereign at a given time.

[119] Constitution of 1887, Articles 31, 41, 48, 78; Everett v. Baker, 7 Haw. 229 (1888), In re Right of the Sovereign to Appoint a New Cabinet on Taking the Throne, 8 Haw. 579 (1891), In re the Signature of the Sovereign to Amendments to the Constitution, 8 Haw. 606 (1892) (her signature held unnecessary); Spaulding, Cabinet Government in Hawaii 1887-1893, HAWAII UNIVERSITY OCCASIONAL PAPERS No. 2 (1924).

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her to act.[120] She could not remove the cabinet ministers.[121] The cabinet ministers she chose could only be removed from office by a legislative vote of no confidence.[122] Of the five cabinets she appointed in the last year of her reign, four were dismissed by legislative votes of no confidence and the fifth was removed by the Revolution.[123]

As was noted above, the Queen's moral claim to her position and consequently to its powers is disputable.[124] It is debatable whether the Queen's power was legitimated by the consent of the governed. The Queen claimed popular support from the Hawaiians but Hawaiians made up well less than half of the population in 1893.[125]

Even if she acquired a moral right to reparations for the loss of her political power, she shared her claim

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[120] *Id.*; 1887 Constitution Articles 41, 78. *In re Responsibility of the Cabinet*, 8 Haw 566 (1890); *In re Responsibility of the Cabinet*, 8 Haw. 572 (1890); Spaulding, *Cabinet Government*.

[121] Constitution of 1887 Article 41; *In re Right of Sovereign to Dismiss the Cabinet*, 8 Haw. 578 (1891); *In re Right of the Sovereign to Appoint a New Cabinet on Taking the Throne*, 8 Haw. 579 (1891); *Regina v. [illegible]*, 8 Haw. 521 (1892), *Queen v. Coote*, 8 Haw. 552 (1892); Spaulding, *Cabinet Government*.

[122] Constitution of 1887 Article 41; cases cited in n. 120; Spaulding, *Cabinet Government*.

[123] 3 KUYKENDALL 549; Spaulding, *Cabinet Government* 12. One Cabinet lasted only a few hours. 3 KUYKENDALL 556-557.

[124] *See supra* at ______.

[125] In 1890, Hawaiians and part-Hawaiians were 45.1% of the population; by 1896 their share fell to 36.2%. SCHMITT, *supra* n. 78. In 1893 they were presumably about 40% of the population.

with no one because she shared her power with no one. There is no one today who can claim that power as the rightful monarch of Hawaii under the 1887 Constitution.[126]

At the time of the revolution only one of the four cabinet ministers, Samuel Parker, was even part-Hawaiian.[127] Of the 48 legislators, only about one-half were Hawaiian or part-Hawaiian.[128] The great majority of Hawaiians and part-Hawaiians were not even eligible to serve in the legislature. They were excluded by constitutional provisions requiring legislators to be men and to be literate in Hawaiian or a European language and to meet stiff property requirements.[129] The powers held by Parker and the Hawaiian and part Hawaiian legislators in January of 1893 were not hereditary; they were to last only as long as their jobs did.

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[126] *See* discussion *supra* at ______.

[127] 3 KUYKENDALL 581, 187.

[128] LYDECKER 182.

[129] Constitution of 1887, Articles 56 and 61. Approximately one-third of all Hawaiians and part-Hawaiians were minors and about half the adults were women. THRUM'S HAWAIIAN ANNUAL FOR 1900, at 39-40, citing statistics from the 1896 census. The property qualification to be a Noble was the same as that required to vote for Nobles: either owning taxable property in the Kingdom of a net value of at least $3,000.00 or having an income of at least $600.00 per year. Constitution of 1887 Articles 56 and 59. This property qualification excluded about three quarters of those otherwise eligible to vote. [illegible], ATLAS OF HAWAII 26-27 (1970). Compare percentages of population voting for representatives with those voting for Nobles as given in R. SCHMITT, HISTORICAL STATISTICS OF HAWAII 597 (1977) and Schmitt, Voter Participation Rates in HAWAII Before 1900, 5 THE HAWAIIAN JOURNAL OF HISTORY 50 (1971) indicating about four times as many people voted for representatives as voted for Nobles. Representatives had to own real estate with a net value of at least $500.00 or have an annual income of at least $250.00. Constitution of 1887, Article 61.

About three out of four Hawaiians could not vote at all.[130] Since they had no political power they lost no political power in the Revolution of 1893 and had no claim for reparations. Of those who could vote, a further three out of four Hawaiians could vote only for Representatives but could not vote for Nobles.[131] They were thus denied any political power or influence over half the Legislature. Only about one out of sixteen Hawaiians could vote for both Nobles and Representatives.[132] Of course, there were no popular elections for monarch or for the cabinet ministers.[133]

However, those Hawaiians who could vote had far more political power than was morally justified. Hawaiians

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[130] See 1890 census statistics reported in THRUM'S HAWAIIAN ANNUAL FOR 1892 p. 16, showing that 23.5% of all Hawaiians were registered voters in 1890. Constitutional limits on eligibility were set out in the 1887 Constitution Articles 59 and 62. About two-thirds of the Hawaiian and part-Hawaiian population were excluded because of age and/or sex. *See* n. 129 *supra*. Some men were apparently excluded because of non-payment of taxes or conviction of a felony but statistics on this are not available. Some were also probably excluded because of illiteracy. The 1890 census reported that 70% of all Hawaiians and part Hawaiians were literate. THRUM'S HAWAIIAN ANNUAL FOR 1892 at 14-15. But the census figures do not show how many otherwise eligible Hawaiian men were excluded because of illiteracy. The literacy requirement was waived for men born after 1840 and for men who voted in the 1887 election.

[131] *See* n. 129 *supra*; Constitution of 1887, Articles 59, 62, and 73.

[132] *See* nn. 129, 130 *supra*; Constitution of 1887, Articles 59, 62 and 73.

[133] Constitution of 1887, Articles 22 and 41.

who could vote for Representatives amounted to about two-thirds of the electorate for Representatives.[134] But they were only about 15-18% of the total adult population of the island.[135] Those Hawaiians who could vote for Nobles amounted to about one-third of the electorate for Nobles, but only about 4.5% of the adult population.[136]

The electoral power of those Hawaiians who could vote was so disproportionate to their numbers in the general population because the vast majority of the adult population was excluded from the ballot box by racial, sex and wealth discrimination. No women or Orientals could vote.[137] Voters also had to be literate in Hawaiian, English or a European language.[138] They had to have lived in Hawaii for at least one year to vote for Representatives and three

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[134] 3 KUYKENDALL 453. In 1890 Hawaiian and part-Hawaiian voters made up 70.3% of all registered voters. THRUM'S (1892) n. 129, *supra*.

[135] Estimates drawn from 1890 and 1896 census figures given in THRUM'S HAWAIIAN ANNUAL (1892) and (1900) and SCHMITT, HISTORICAL STATISTICS OF HAWAII 21, 25; and Schmitt, Voter Participation Rates in Hawaii Before 1900, n. 129, *supra*.

[136] 3 KUYKENDALL 453; population statistics estimated from statistics given in sources cited in nn. 129, 130 *supra*.

[137] Constitution of 1887, Articles 59 and 62. "A question in the 1890 census revealed that Chinese and Japanese accounted for 51.8% of all males of voting age but none of the registered voters." Schmitt, *Voter Participation in Hawaii before 1900*, n. 129 *supra*, at 56, citing census figures reprinted in THRUM'S (1892) at 16. Even Orientals who were Hawaiian citizens and who had been able to vote before the 1887 Constitution was adopted were deprived of their voting rights. *Ahlo v. Smith* 8 Haw. 420 (1892).

[138] Constitution of 1887, Articles 59 and 62.

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years to vote for Nobles[139] but foreigners could vote, unless they were not Caucasian.[140] Voters also had to have paid all their taxes and had to have registered to vote.[141] "Idiots", the "insane" and convicted felons could not vote.[142] Persons voting for Nobles had to meet the additional qualification of either owning property of at least $3,000 net value or having an income of at least $600 per year.[143] This property qualification alone cut out about three-quarters of the persons otherwise eligible.[144] There were more Oriental adults in Hawaii in 1893 than there were adult Hawaiians.[145] True, most of them were aliens, but white aliens could vote; the discrimination was purely racial.[146]

Presumably everyone agrees that all adult citizens (with the exception of insane and retarded persons) had a

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[139] Id. However the residency and literary requirements did not apply to persons residing in the Kingdom when the 1887 Constitution was adopted if they registered to vote in the 1887 election. Id.

[140] Id.; Ahlo v. Smith, 8 Haw. 420 (1892)

[141] Constitution of 1887, Articles 59 and 62.

[142] Constitution of 1887, Article 59.

[143] Constitution of 1887, Article 62. Only cash income counted, not the value of board and lodging received by employees. In the Matter of the Qualifications of Voters for Nobles, 8 Haw 563 (1890). This decision excluded a major source of income for plantation workers who typically received low cash wages plus board and lodging.

[144] See n. 129 supra.

[145] See THRUM'S ALMANAC (1892) and (1900) nn. 129, 130 supra.

[146] See n. 137 supra.

moral right to vote and that it was immoral to deny the vote to anyone because of race, sex, or poverty.[147] Since white aliens were allowed to vote, the exclusion of non-white aliens was immoral racial discrimination. Thus the morally proper voting strength of those Hawaiians who could vote was their number divided by the total number of adults in the Kingdom: about 13-18% of the electorate. Their power over that amount was immoral. They had no moral right to reparations for its loss.

During the period of the provisional government and the Republic political power was tightly held by the revolutionary leadership.[148] However, when Hawaii became an American territory everyone who had been disenfranchised regained his vote.[149] Furthermore, the racial and property qualifications were dropped; in 1920 women got the right to

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[147] The literacy requirement cannot be justified by the usual argument that a person must be able to read and right the language... in which public business is conducted to be able to intelligently cast his vote. Public business in 1893 was conducted in English and Hawaiian. A man literate only in Albanian or Polish could vote while a man literate only in Chinese or Japanese could not.

[148] G. DAWS, SHOAL OF TIME 280-281 (1968); 3 KUYKENDALL 649. In the Republic's only general election only 0.9% of the population of Oahu voted. SCHMITT, HISTORICAL STATISTICS n. 110 supra, p. 597. Most of the voters were Caucasian. RUSS, THE HAWAIIAN REPUBLIC, 1894-1898 26-34 (1961). Since the Oahu population was more Caucasian and probably richer on the average than the populations on the Neighbor Islands, the Oahu figure probably overstates the figure for the Republic as a whole.

[149] Organic Act § 60, reprinted in Vol. 1 of the Rev. Haw. Stat. at 50.

vote.[150] Thus, many Hawaiians who had no political power or rights under the monarchy obtained rights and power.

Hawaiians today have exactly the same political rights as everyone else and exactly the same voting rights: one person--one vote.[151] To claim any more than that because a minority of their ancestors had more power, or to claim reparations because a few of their ancestors may have lost political power is to claim a moral right to inherit political power. No one has any such right.[152]

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[150] Id.; U.S. Constitution, Nineteenth Amendment. However, the citizenship requirement excluded Oriental aliens as well as Caucasian aliens.

[151] Or perhaps more than everyone else. Only persons of Hawaiian ancestry are eligible to vote for trustees of the Office of Hawaiian Affairs or to be OHA trustees, State Constitution Article 12, § 5. The question of whether this racial restriction on voting and holding public office violates the Fourteenth and Fifteenth Amendments is beyond the scope of this article.

[152] Those who think political power is hereditary must, in addition to giving reasons for that belief, face several other questions, e.g.: How is it decided how the political power descends to people today? If many living people are descended from one 1893 voter do they split his claim? On what terms? Or does only one of his heirs get it? If one living person is the only descendant of two 1893 voters does he get twice as much reparations? Do descendants of persons who could vote for Nobles get more than descendants of those who could vote only for Representatives? Do people descended from Cabinet ministers, Nobles or Representatives have a larger claim? Do persons with more Hawaiian ancestry get more? Do descendants of ali'i get more? Do some people with very little Hawaiian ancestry get nothing? Do the descendants of non-Hawaiian royalists who lost power in 1893 get anything? If not, why that racial exclusion? What about someone descended from a royalist and a revolutionary? How can the right to vote be evaluated in terms of cash or land? How much was the right to vote for Nobles worth? The right to vote for Representatives? Should reparations for lost power be reduced by the value of the rights to vote in state and federal elections? How much are those rights worth? Since the author of this article maintains political power is not hereditary, he need not reach these questions. This is fortunate because he would not know how to begin to answer them.

Inheritance of political power is the principle of absolute monarchy, of aristocracy, and of racism. It has no place in democratic American society.

Since no Hawaiian living today was deprived of any morally justified political power in 1893, no Hawaiian today has any right to any reparations for loss of that power. We have already seen that no one today has any right to reparations for loss of land. The conclusion is clear: there is no moral obligation to pay Hawaiian reparations.

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CECIL "CEC" HEFTEL
1st District, Hawaii
Congress of the United States
House of Representatives
Washington, D.C. 20515

November 22, 1982

Native Hawaiians Study Commission
Department of the Interior
18th and C Streets, N.W., Room 6220
Washington, D.C. 20240

Comments Submitted by Congressman Cec Heftel on the Draft Report of Findings of the Native Hawaiians Study Commission

Dear Commissioners:

Since reading the draft report of the Commission, I have met with representatives of Hawaiian organizations, and we are in agreement that the draft is flawed to such an extent that considerable additional time and work will be required to send the report forward in a proper context. We therefore seek an extension of the reporting time for comments.

There are facets of the report which demand challenge. I am bothered and the Hawaiian leadership is bothered by subjective views in the report that do not present either the actuality or the nuances of certain historical events.

I do not believe it is the job of the Commission to write history which merely substantiates a point of view held by those who emerged victorious from the events in Hawaii in the 1890s. There is certainly another point of view, that of the native Hawaiians, which has not been given sufficient weight in this draft.

It would appear that non-Hawaiians attempting to reconstruct the happenings of that era must have an unusual sensitivity to the plight of the Hawaiian people before an objective and accurate history can emerge. I believe that sensitivity is lacking in this draft. History, as someone noted, is written by the victors -- who perhaps have no interest in being totally fair, even a century later.

Similarly the statistical compilations of the draft may have some uses but do not describe or define Hawaiians. To judge Hawaiians today in juxtaposition with their contemporaries

Native Hawaiians Study Commission
Page 2
November 22, 1982

may locate them on some socio-economic scale, but does not answer the crucial question: How true are their lives to native Hawaiian culture and values?

It is not enough to look back a century and reach certain conclusions, not enough to probe the past with modern statistical tools, unless you also are able to evaluate the Hawaiian experience and ethics against a Hawaiian concept. What may appear undesirable in one culture can have a logical explanation in another. To do a total, meaningful summation of Hawaiians, it will be necessary to measure them against Hawaiian values. This mandates an understanding of Hawaiians and their values that is not addressed to any extent in this draft.

The draft indicates by its use of selective history that political unrest in the Hawaii of the 1980s made some sort of intervention necessary, and that the United States was the logical power to make that intervention. This suggests an enormous conceit on the part of the participants in the events of that time. It also suggests that the injustices of history are inexorable, that small kingdoms are fated to be swallowed up by stronger powers, and that what happened to the Hawaiian-people has happened countless times in the past. If we accept this as factual, we are accepting the concept that might makes right, and if we believe that we are denying the nobility that mankind aspires to. The events that led to the loss of independence in Hawaii were not predestined. They were the actions of a group of men who were not, perhaps, altogether altruistic and certainly not overly sympathetic to the situation of the Hawaiians. Those who accept the inevitability of the seizure of Hawaii by the United States are those who are prepared to accept injustice as the norm. It is not the standard by which great men or great nations are measured.

Recognizing the injustices of a century ago we must also recognize that for decades the injustices have been compounded by a litany of lies and evasions. We must not now add to the problems of the Hawaiian's situation by continuing with misinformation or falsehoods. If it is impossible for a politically-appointed commission to reach an unbiased conclusion regarding Hawaiian claims, perhaps that should be so stated. If the sympathies of political bodies, the American public and its elected officials, are all against the claims and counter to the aspirations of the

Native Hawaiians Study Commission
Page 3
November 22, 1982

Hawaiians, then it should be made known. As cruel as the events of the 1890s appear to Hawaiians, they are no more cruel that the long history of deception which followed.

It is difficult for the Hawaiians to accept a pattern of rejection in the wake of successes by other groups. As these comments are being prepared, the Commission on Wartime Relocation and Internment of Civilians is discussing the amount and type of compensation due Niseis who were interned in America at the beginning of World War II. One recommendation has been that the remaining 60,000 persons who were interned receive $25,000 each. The Hawaiians, whose cause is equally just, have not placed a monetary value on their injuries; they are looking initially for redress of an obvious act of aggression by a foreign power against their independence. There is a real concern in the Hawaiian community that the United States admit its guilt and concede that acts of aggression were committed.

Also at this writing, the United States Supreme Court is considering a series of American Indian cases involving water rights in the western United States. What is involved is the extent of tribal management over valuable property, leading to a measure of self-determination for Indians. The Indian Self-Determination and Education Assistance Act of 1975 was a move to stop the slow erosion of Indian culture and its ultimate disappearance from Indian life. The Hawaiians have similar concerns. The American Indians now are translating their political victories into strengthening control of their own resources, again something the Hawaiians would like to be able to do. Native Alaskans have scored some impressive victories in their efforts not merely to gain compensation, but to establish their identities as well. Identity is of extreme importance to the Hawaiians.

It is apparent that the Hawaiian claims are being heard in a hostile political and economic climate. But we must ask the question: When is it feasible for a superpower to admit guilt? How long must the Hawaiians wait before justice, so long delayed, will be applicable to their situation?

One of the more difficult aspects of this draft report deals with what the report terms the lack of a legal basis for the compensation of claims. That signals a most subjective point of view regarding whether a claim actually exists. It suggests that because legal language does not exist, no accountability exists. This is both immoral and intellectually lazy.

Native Hawaiians Study Commission
Page 4
November 22, 1982

The fact that an unjustified intervention in the affairs of the Hawaiian kingdom took place is irrefutable. It was, in fact, admitted by many leading Americans of the day including the President of the United States. That the intervention led to accelerating difficulties for the Hawaiians is not a theory but a matter of record. There is no lack of language, legal or otherwise, to substantiate that such aggression did take place against a kingdom duly recognized and acknowledged by the United States. It should be axiomatic that having come to this realization, a nation espousing a high moral creed should be eager to exorcise the ghost of an illegal act. There should be no statute of limitations on the crime of stealing a people's independence.

In summation, I do not feel that sufficient effort has been made to reflect accurately the situation then and now of the Hawaiian people, and I do not believe there is sufficient time to compensate for the draft report's inadequacies by hasty comments. The situation is too important for precipitous action. On behalf of my Hawaiian constituents, and on behalf of those of all races sympathetic to the plight of the Hawaiians, I seek an extension of time so that accurate history may be prepared and meaningful data compiled. Only then will the Hawaiian people be in a position to place their cause before the consciences of their fellow Americans.

Sincerely,

Cec Heftel

Cec Heftel
Member of Congress

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Nov. 18, 1982

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Stephen Shipley, Vice Chairman, and
Members of the Native Hawaiian Study Commission,
Department of the Interior Building, room 6220,
18th and C St. N.W., Washington D.C. 20240

Ladies and Gentlemen:

As I pondered over the literature on my desk, an accumulation of gifts and loans on the subject of Native Hawaiian claims and concerns, in addition to the first draft of the Native Hawaiian Study Commission Report, I became aware of omissions and errors in the first draft.

It is a keen awareness, since I happen to have done an intensive study of authentic Hawaiiana for many years and have always been intrigued by the pattern of succession in the Kingdom of Hawaii. Unfortunately, succession in Hawaii seems to be an esoteric subject on which there is a dearth of experts. Outside of a hobbyist or two, I've yet to meet anyone in academia with more than a vague or superficial grasp of the subject.

Superficial is an apt word, for the coverage of the subject by certain of the early 20th Century journalists in their zeal to honor this or that socialite. And so succession has been a subject of muddled and beclouded areas for a long time.

In fact, it has only been in relatively recent times, that a breed of writers on the subject has surfaced, in published or unpublished works that refuses to take the impartiality of historians for granted, and insists on going directly to primary sources to draw conclusions. As a result there has been a break through in dispelling some of the old assumptions propagated by the media, and in really understanding what succession in the Kingdom of Hawaii was all about, particularly the material and invisible sanctions involved.

For these reasons, though I'm ordinarily disinterested and neutral on Native Hawaiian issues, I feel it incumbent upon myself to share, unofficially, my own findings on the subject of succession.

I think there can be no question that the High Chiefess Elizabeth Kekaaniau Pratt held the paramount claim to the Hawaiian Throne after Queen Liliuokalani died on Nov. 11, 1917. This is backed by irrefutable evidence, that speaks for itself and is very convincing.

Kekaaniau's claim to the throne as a royal student was sanctioned by all the bodies of government, including King Kamehameha III(as Executive and Chief Justice), Miriam Kekauluohi(as Premier), and by legislation by the Houses of Nobles and Representatives, implemented by the King's Order on the advice of the Chiefs in Privy Council. Kekaaniau was among the sixteen students, who were delegates, already confirmed by the King and Chiefs, to the Official Royal School to be groomed for the throne, and later subject to the formality of reconfirmation. Therefore, their paramount claims restricted Parliament's right of selection during an interregnum and opened up the possibility of settling the succession by amicable agreement among themselves, by elective contests, or a show of arms in insurrection.

Another heretofore muddled area is the notion of the existence of a Kalakaua Crown. In fact, the Crown of Hawaii never drifted very far from the Kamehameha Dynasty. Lunalilo traced his descent from Kalaimamahu, a brother of Kamehameha I. And Kalakaua traced his descent from Kameeiamoku, an uncle of Kamehameha I. Furthermore, Kalakaua's youngest sister, Kaiminaauao, was adopted by Kamehameha III, and his eldest sister, Liliuokalani was adopted by Konia and Paki, the parents of Bernice Pauahi Bishop, who also claimed descent from the Kamehameha line. Little wonder that Liliuokalani was thought of as a Kamehameha as well as a Kalakaua.

As a matter of fact, Kalakaua's formidable rival for the throne ten years after his election was still Queen Emma, backed by a faction in the native population that questioned his right to rule. And Queen Emma traced her descent from Keliimaikai, youngest brother of Kamehameha I. Also, she and Kalakaua were classmates at the Official Royal School.

Hypothetically, if we look at claims to the Crown with reference to leverages, as soon as Liliuokalani died in 1917, the Crown would have virtually become the property of a royal student, if any. Let us call that leverage # 1 or first rights. But if there were no royal students, the Crown would then have virtually become the property of the Kamehameha lineage, just as Napoleon's government was reclaimed by the Bourbon lineage of France. Let us call that leverage # 2 or second rights.

On any count Kekaaniau's claim is paramount. And she is recorded as a direct descendant of Keoua, the recognized father of King Kamehameha I, in one of the best evidenced of extant royal genealogies of Hawaii. While leading 19th Century genealogists have clashed on some points in some genealogies, they converge in universal acceptance of Kekaaniau's line.

Indeed, it would be odd for a conscientious and in-depth researcher or genealogist of our own century, with access to information from vital, court, land, church and cemetery records, as well as 19th Century personal records, correspondence, English and Hawaiian periodicals etc., or from genealogical manuscript collections, for example, like the one in the State Archives, to conclude otherwise.

Even the former Polynesian Ethnologist and Curator-in Charge of the Bishop Museum, John Stokes, who did meticulous detective work in scrutinizing and questioning the validity of certain claims to Kamehameha ancestry, identified Kekaaniau in one of his works as the closest living cousin to Kamehameha V.

However, it was Kekaaniau's standing as the one remaining royal student in 1917 that gave her an indefeasible claim. For in giving legal sanctions to custom, the Kingdom of Hawaii recognized her incontestable customary legitimacy as a rightful heir to the Crown by birth. But more than a member of a caste of highest paramount chiefs, Kekaaniau was an individual the Monarchy considered, through selection and training, fit to occupy the throne.

This may be why Henry Augustus Peirce, who lived among Hawaiians and studied their culture long before his appointment as U.S. Minister in Hawaii, alluded to the royal students as those who should receive annuities in the event of annexation, in a letter to Secretary of State Hamilton Fish on Feb. 25, 1871.

Customary law or tradition can truly be sovereign, and is often perceived as coming from an authority above, not below, Parliament. It is derived from the collective wisdom of the Hawaiian race older than Parliaments and Kings. And few, if any, cultures in the world have placed greater emphasis on genealogy and ordination of rulers by birth than Hawaiian culture to my knowledge. This is rooted in Hawaiian cultural beliefs, in the veneration of guardian spirits(aumakua), and of ancestral authority. The genuine royal students were the highest ranked representatives of the ancient kings. Thus, they had behind them the authority of the lineage ancestors and the right to represent the will of those sacral kings, who once ruled the land.

Kekaaniau, through incontestable customary legitimacy, as the rightful heir to the Crown in 1917, would have had a primacy linked with the sacred history of the Hawaiian race, which nothing could compromise. The demand for legitimism is rooted in the concept of mana inherited through genealogy. Mana, which can mean a grade of sacred, spiritual or psychic power etc., would sanctify her rule.

For the above reasons, the High Chiefess Kekaaniau Pratt's claims and cultural significance can hardly be overestimated. For who else but she or her descendants could rightfully uphold the "mythical charter" that justified the socioeconomic system of Hawaiian culture?

If a more sophisticated readership is to give credence to the commission's final report, then certain hard facts must not be circumvented. The distribution of duties in compiling the report surely doesn't absolve individual commissioners from undivided responsibility in seeing that discrepancies pointed out are corrected on the whole. The American Public, that is financing the venture, has a right to expect correct information from an impartial, objective and accurate report.

Very sincerely yours,

Ralph L Heidenreich

Ralph L. Heidenreich

cc.
Senator Strom Thurmond
Congressman Thomas P. O'Neil jr.
Michael D. Mathewey
Charles Conklin

Bud Henry

NOV 2 2 1982

21 November 1982

Dear Study Commission:

I sent these same three articles from The California Illustrated Magazine of 1893 to Mrs. Kamalii over a year ago. I felt that they would help in the History section of the document since they were published around the time of the Revolution.

History is always slanted by the writer and his/her research but the more "slants" we get, the closer we may come to what actually happened.

Aloha,

Bud Henry

L. L. (Bud) HENRY
46-319 Ikiiki St.
Kaneohe, HI 96744

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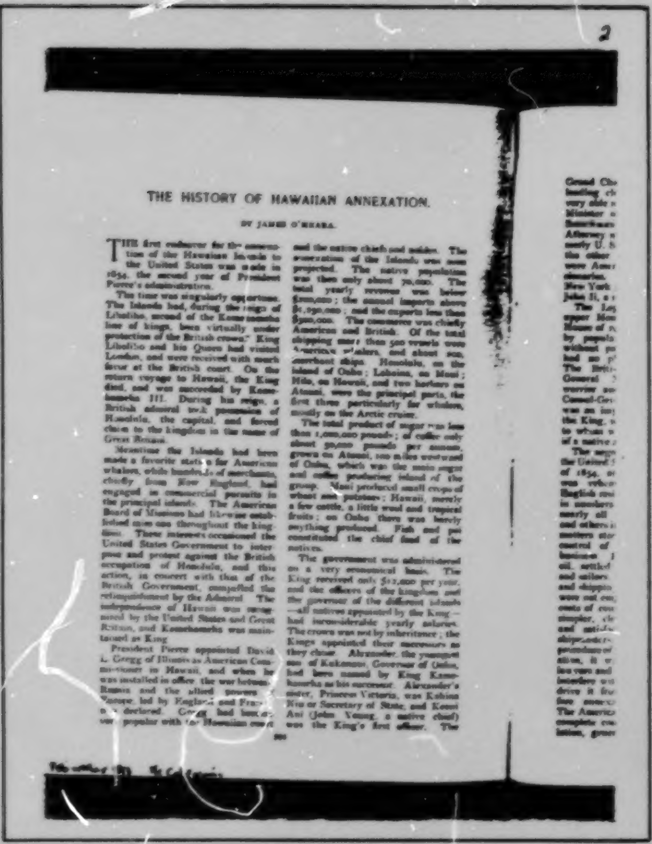

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THE HISTORY OF HAWAIIAN ANNEXATION.

BY JAMES O'MEARA.

THE first endeavor for the annexation of the Hawaiian Islands to the United States was made in 1854, the second year of President Pierce's administration.

The time was singularly opportune. The Islands had, during the reign of Liholiho, second of the Kamehameha line of kings, been virtually under protection of the British crown. King Liholiho and his Queen had visited London, and were received with much favor at the British court. On the return voyage to Hawaii, the King died, and was succeeded by Kamehameha III. During his reign, a British admiral took possession of Honolulu, the capital, and forced cession of the kingdom in the name of Great Britain.

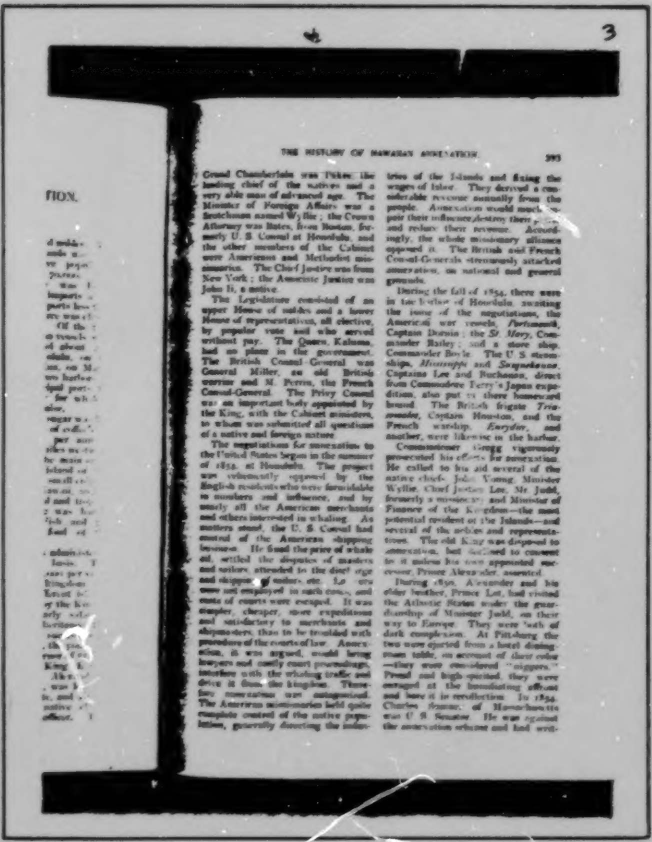
Meantime the Islands had been made a favorite station for American whalers, while hundreds of merchants, chiefly from New England, had engaged in commercial pursuits in the principal islands. The American Board of Missions had likewise established missions throughout the kingdom. These interests occasioned the United States Government to interpose and protest against the British occupation of Honolulu, and this action, in concert with that of the British Government, compelled the relinquishment by the Admiral. The independence of Hawaii was recognized by the United States and Great Britain, and Kamehameha was maintained as King.

President Pierce appointed David L. Gregg of Illinois as American Commissioner to Hawaii, and when he was installed in office the war between Russia and the allied powers of Europe, led by England and France, was declared. Gregg had become very popular with the Hawaiian court and the native chiefs and nobles. The annexation of the Islands was soon projected. The native population was then only about 70,000. The total yearly revenue was below $200,000; the annual imports above $1,290,000; and the exports less than $900,000. The commerce was chiefly American and British. Of the total shipping more than 500 vessels were American whalers, and about 100, merchant ships. Honolulu, on the island of Oahu; Lahaina, on Maui; Hilo, on Hawaii, and two harbors on Atauai, were the principal ports, the first three particularly for whalers, mostly on the Arctic cruise.

The total product of sugar was less than 1,000,000 pounds; of coffee only about 50,000 pounds per annum, grown on Atauai, 100 miles westward of Oahu, which was the main sugar and coffee producing island of the group. Maui produced small crops of wheat and potatoes; Hawaii, merely a few cattle, a little wool and tropical fruits; on Oahu there was barely anything produced. Fish and poi constituted the chief food of the natives.

The government was administered on a very economical basis. The King received only $12,000 per year, and the officers of the kingdom and the governor of the different islands—all natives appointed by the King—had inconsiderable yearly salaries. The crown was not by inheritance; the Kings appointed their successors as they chose. Alexander, the youngest son of Kekuanaoa, Governor of Oahu, had been named by King Kamehameha as his successor. Alexander's sister, Princess Victoria, was Kahina Nui or Secretary of State, and Keoni Ani (John Young, a native chief) was the King's first officer. The

February 1893 The Californian



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Grand Chamberlain was Pikoe, the leading chief of the natives and a very able man of advanced age. The Minister of Foreign Affairs was a Scotchman named Wyllie; the Crown Attorney was Bates, from Boston, formerly U. S. Consul at Honolulu, and the other members of the Cabinet were Americans and Methodist missionaries. The Chief Justice was from New York; the Associate Justice was John Ii, a native.

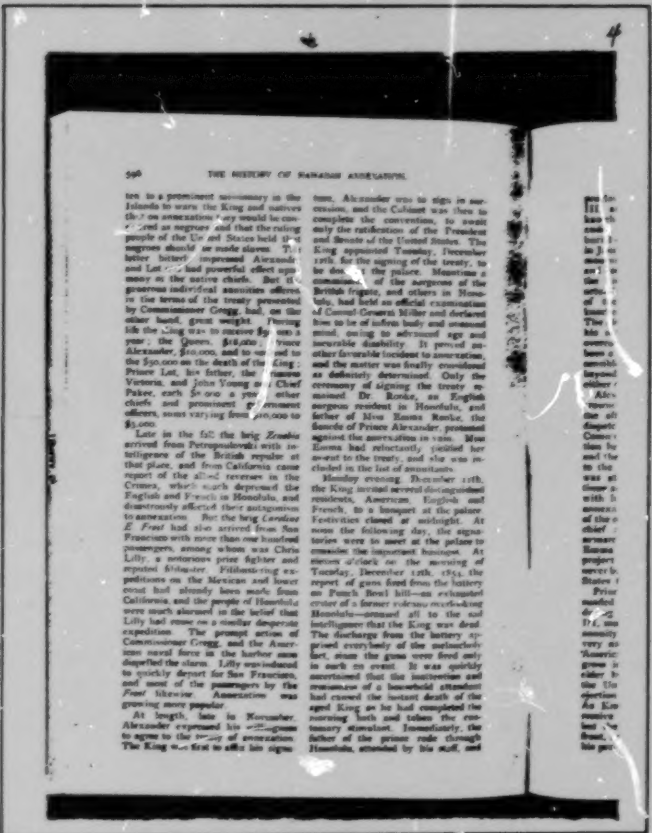
The Legislature consisted of an upper House of nobles and a lower House of representatives, all elective, by popular vote and who served without pay. The Queen, Kalama, had no place in the government. The British Consul-General was General Miller, an old British warrior and M. Perrin, the French Consul-General. The Privy Council was an important body appointed by the King, with the Cabinet ministers, to whom was submitted all questions of a native and foreign nature.

The negotiations for annexation to the United States began in the summer of 1854, at Honolulu. The project was vehemently opposed by the English residents who were formidable in numbers and influence, and by nearly all the American merchants and others interested in whaling. As matters stood, the U. S. Consul had control of the American shipping business. He fixed the price of whale oil, settled the disputes of masters and sailors, attended to the discharge and shipping of sailors, etc. Lawyers were not employed in such cases, and costs of courts were escaped. It was simpler, cheaper, more expeditious and satisfactory to merchants and shipmasters, than to be troubled with procedure of the courts of law. Annexation, it was argued, would bring lawyers and costly court proceedings, interfere with the whaling traffic and drive it from the kingdom. Therefore annexation was antagonized. The American missionaries held quite complete control of the native population, generally directing the industries of the Islands and fixing the wages of labor. They derived a considerable revenue annually from the people. Annexation would much impair their influence, destroy their p[illegible] and reduce their revenue. Accordingly, the whole missionary alliance opposed it. The British and French Consul-Generals strenuously attacked annexation, on national and general grounds.

During the fall of 1854, there were in the harbor of Honolulu, awaiting the issue of the negotiations, the American war vessels, *Portsmouth*, Captain Dornin; the *St. Mary*, Commander Bailey; and a store ship, Commander Boyle. The U. S. steamships, *Mississippi* and *Susquehanna*, Captains Lee and Buchanan, direct from Commodore Perry's Japan expedition, also put in there homeward bound. The British frigate *Trincomalee*, Captain Houston, and the French warship, *Eurydice*, and another, were likewise in the harbor.

Commissioner Gregg vigorously prosecuted his efforts for annexation. He called to his aid several of the native chiefs—John Young, Minister Wyllie, Chief Justice Lee, Mr. Judd, formerly a missionary and Minister of Finance of the Kingdom—the most potential resident of the Islands—and several of the nobles and representatives. The old King was disposed to annexation, but declined to consent to it unless his own appointed successor, Prince Alexander, assented.

During 1850, Alexander and his elder brother, Prince Lot, had visited the Atlantic States under the guardianship of Minister Judd, on their way to Europe. They were both of dark complexion. At Pittsburg the two were ejected from a hotel dining-room table, on account of their color—they were considered "niggers." Proud and high-spirited, they were enraged at the humiliating affront and bore it in recollection. In 1854, Charles Sumner, of Massachusetts was U. S. Senator. He was against the annexation scheme and had written to a prominent missionary in the Islands to warn the King and natives that on annexation they would be considered as negroes and that the ruling people of the United States held that negroes should be made slaves. This letter bitterly impressed Alexander and Lot and had powerful effect upon many of the native chiefs. But the generous individual annuities offered in the terms of the treaty presented by Commissioner Gregg, had, on the other hand, great weight. During life the King was to receive $300,000 a year; the Queen, $18,000; Prince Alexander, $10,000, and to succeed to the $50,000 on the death of the King; Prince Lot, his father, the Princess Victoria, and John Young and Chief Pakee, each $5,000 a year; other chiefs and prominent government officers, sums varying from $10,000 to $3,000.



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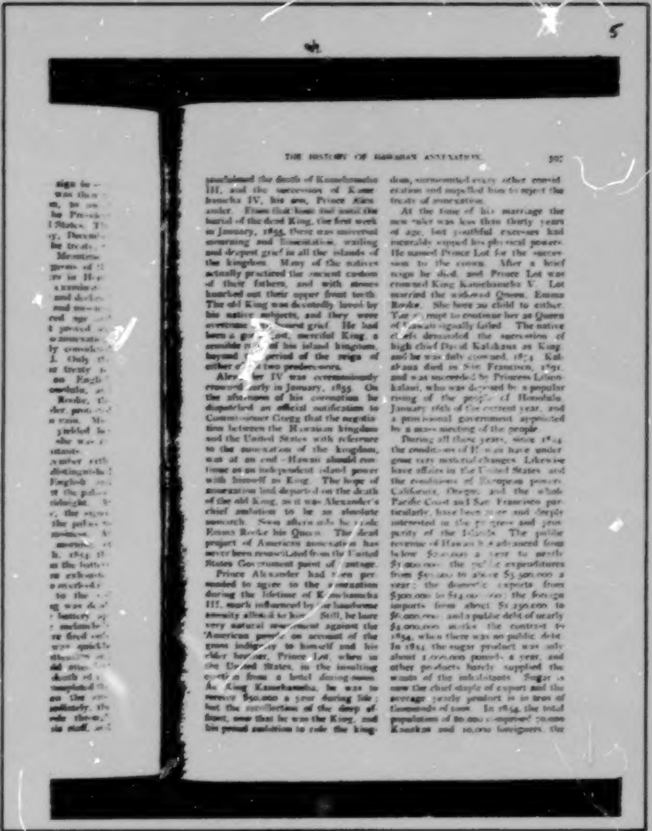
Late in the fall the brig *Zenobia* arrived from Petropaulovski with intelligence of the British repulse at that place, and from California came report of the allied reverses in the Crimea, which much depressed the English and French in Honolulu, and disastrously affected their antagonism to annexation. But the brig *Caroline E. Frost* had also arrived from San Francisco with more than one hundred passengers, among whom was Chris Lilly, a notorious prize fighter and reputed filibuster. Filibustering expeditions on the Mexican and lower coast had already been made from California, and the people of Honolulu were much alarmed in the belief that Lilly had come on a similar desperate expedition. The prompt action of Commissioner Gregg, and the American naval force in the harbor soon dispelled the alarm. Lilly was induced to quickly depart for San Francisco, and most of the passengers by the *Frost* likewise. Annexation was growing more popular.

At length, late in November, Alexander expressed his willingness to agree to the treaty of annexation. The King was first to affix his signature, Alexander was to sign in succession, and the Cabinet was then to complete the convention, to await only the ratification of the President and Senate of the United States. The King appointed Tuesday, December 12th, for the signing of the treaty, to be done at the palace. Meantime a commission of the surgeons of the British frigate, and others in Honolulu, had held an official examination of Consul-General Miller and declared him to be of infirm body and unsound mind, owing to advanced age and incurable disability. It proved another favorable incident to annexation, and the matter was finally considered as definitely determined. Only the ceremony of signing the treaty remained. Dr. Rooke, an English surgeon resident in Honolulu, and father of Miss Emma Rooke, the fiancée of Prince Alexander, protested against the annexation in vain. Miss Emma had reluctantly yielded her assent to the treaty, and she was included in the list of annuitants.

Monday evening, December 11th, the King invited several distinguished residents, American, English and French, to a banquet at the palace. Festivities closed at midnight. At noon the following day, the signatories were to meet at the palace to consider the important business. At eleven o'clock on the morning of Tuesday, December 12th, 1854, the report of guns fired from the battery on Punch Bowl hill—an exhausted crater of a former volcano overlooking Honolulu—aroused all to the sad intelligence that the King was dead. The discharge from the battery apprised everybody of the melancholy fact, since the guns were fired only in such an event. It was quickly ascertained that the inattention and remissness of a household attendant had caused the instant death of the aged King as he had completed the morning bath and taken the customary stimulant. Immediately, the father of the prince rode through Honolulu, attended by his staff, and



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proclaimed the death of Kamehameha III, and the succession of Kamehameha IV, his son, Prince Alexander. From that hour and until the burial of the dead King, the first week in January, 1855, there was universal mourning and lamentation, wailing and deepest grief in all the islands of the kingdom. Many of the natives actually practiced the ancient custom of their fathers, and with stones knocked out their upper front teeth. The old King was devotedly loved by his native subjects, and they were overcome with honest grief. He had been a good, just, merciful King, a sensible ruler of his island kingdom, beyond the period of the reign of either of his two predecessors.

Alexander IV was ceremoniously crowned early in January, 1855. On the afternoon of his coronation he dispatched an official notification to Commissioner Gregg that the negotiation between the Hawaiian kingdom and the United States with reference to the annexation of the kingdom, was at an end—Hawaii should continue as an independent island power with himself as King. The hope of annexation had departed on the death of the old King, as it was Alexander's chief ambition to be an absolute monarch. Soon afterwards he made Emma Rooke his Queen. The dead project of American annexation has never been resuscitated from the United States Government point of vantage.

Prince Alexander had been persuaded to agree to the annexation during the lifetime of Kamehameha III, much influenced by the handsome annuity allotted to him. Still, he bore very natural resentment against the American people on account of the gross indignity to himself and his elder brother, Prince Lot, when in the United States, in the insulting ejection from a hotel dining-room. As King Kamehameha, he was to receive $50,000 a year during life; but the recollection of the deep affront, now that he was the King, and his proud ambition to rule the kingdom, surmounted every other consideration and impelled him to reject the treaty of annexation.

At the time of his marriage the new ruler was less than thirty years of age, but youthful excesses had incurably sapped his physical powers. He named Prince Lot for the succession to the crown. After a brief reign he died, and Prince Lot was crowned King Kamehameha V. Lot married the widowed Queen, Emma Rooke. She bore no child to either. The attempt to continue her as Queen of Hawaii signally failed. The native chiefs demanded the succession of high chief David Kalakaua as King, and he was duly crowned, 1874. Kalakaua died in San Francisco, 1891, and was succeeded by Princess Liliuokalani, who was deposed by a popular rising of the people of Honolulu, January 16th of the current year, and a provisional government appointed by a mass meeting of the people.

During all these years, since 1854, the conditions of Hawaii have undergone very material changes. Likewise have affairs in the United States, and the conditions of European powers. California, Oregon, and the whole Pacific Coast and San Francisco particularly, have been more and deeply interested in the progress and prosperity of the Islands. The public revenue of Hawaii has advanced from below $200,000 a year to nearly $3,000,000; the public expenditures from $[illegible] to above $3,500,000 a year; the domestic exports from $900,000 to $14,000,000; the foreign imports from about $1,290,000 to $6,000,000; and a public debt of nearly $4,000,000 marks the contrast to 1854, when there was no public debt. In 1854 the sugar product was only about 1,000,000 pounds a year, and other products barely supplied the wants of the inhabitants. Sugar is now the chief staple of export and the average yearly product is in tens of thousands of tons. In 1854, the total population of 80,000 comprised 70,000 Kanakas and 10,000 foreigners, the

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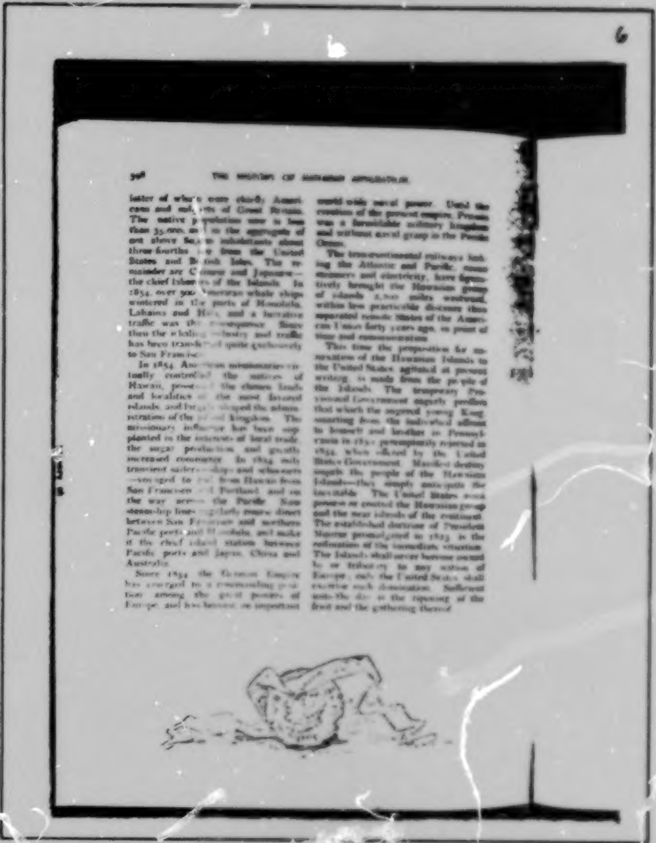

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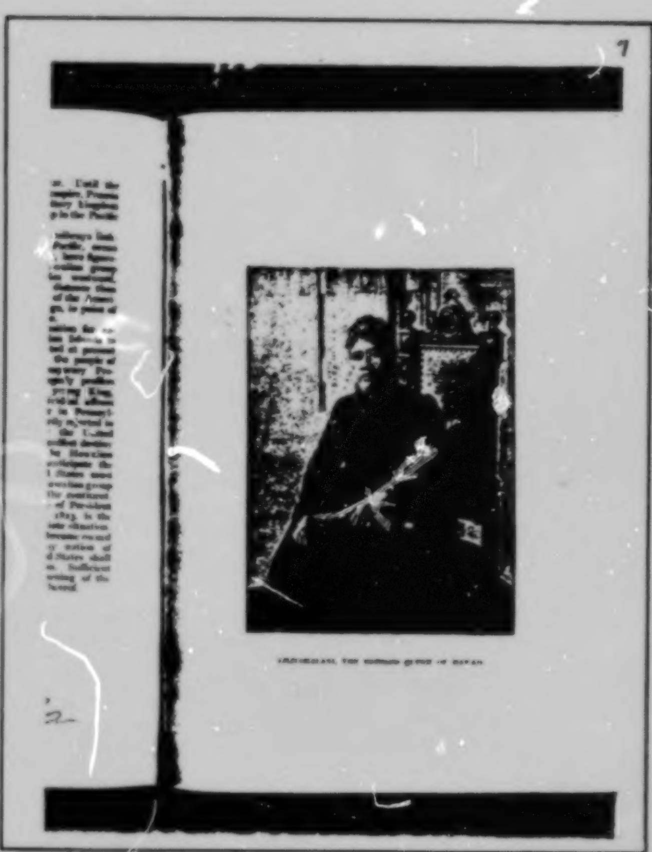

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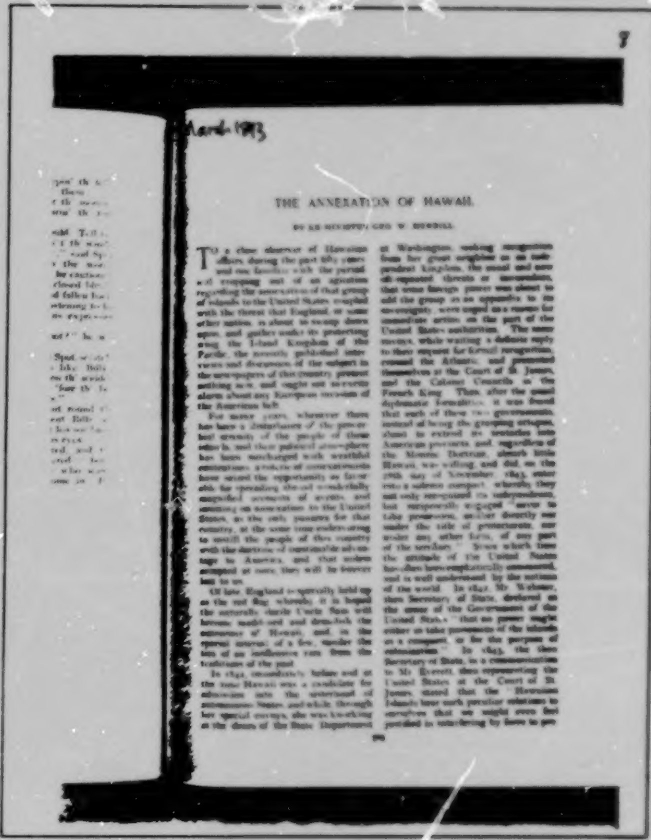

March 1893

THE ANNEXATION OF HAWAII

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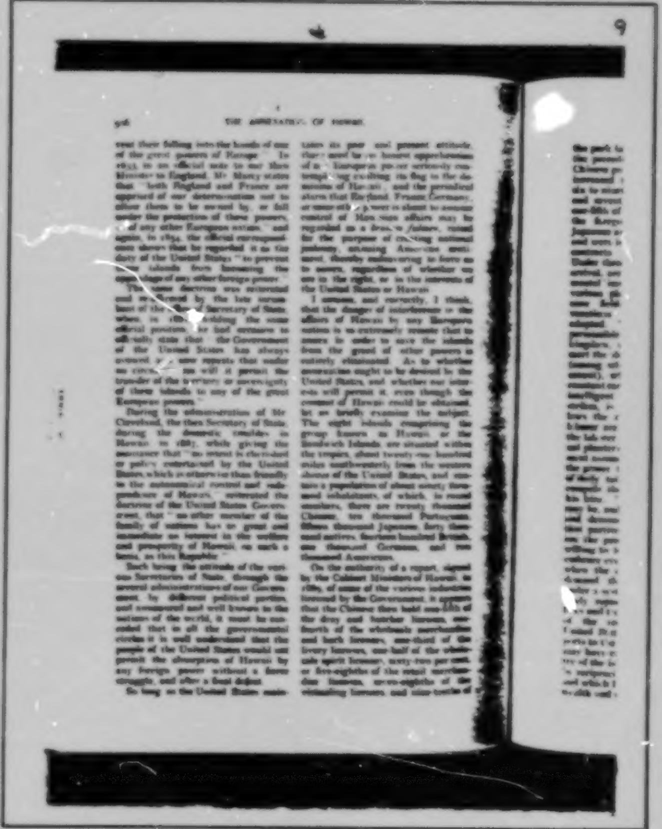

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the pork butcher business; and that in the preceding twenty-three years the Chinese population of the Islands had increased from twelve hundred and six to nineteen thousand two hundred and seventeen, and constituted over one-fifth of the entire population. Of the foregoing, the Portuguese and Japanese are termed assisted laborers, and were imported into Hawaii under contracts peculiar to that country. Under these contracts the laborers, on arrival, are distributed, by a governmental immigration bureau, to the various plantations for labor in the cane fields, and for the different vocations to which they may be adapted. These labor contracts are [illegible] under the laws of the Kingdom, which are so framed as to meet the demands of those industries (among which that of sugar is paramount), which require cheap labor, [illegible], and for which organized, intelligent labor, with [illegible] ideas, is ill adapted. Under these laws the contracts of the imported laborer are so constructed that, when the laborer is assigned to the individual planter or corporation, the Government assumes the duty and becomes the power to enforce the performance of daily toil for a term of years, and [illegible] the laborer to be worthy of his hire. These contract labor laws may be, and doubtless are adapted to, and demanded by the exigencies of that particular tropical latitude; but are the people of the United States willing to forget the past, and finally embrace even a paradise of the Pacific where the conditions are such as to demand the enforcement of labor under a system closely allied to one so lately repudiated at such a cost of lives and treasure? While the effects of the recent tariff law of the United States, in throwing open our ports to the free importation of sugar, may have cast a gloom over an industry of the islands, heretofore protected by reciprocity with the United States, and which has brought large returns, wealth and comfort to the foreign colonists there, and might induce them interested to yield the sovereignty in exchange for the sugar bounty, yet I can hardly believe they fully realize that they would not find in Uncle Sam that paternal indulgence and accommodation exercised by Hawaii, as shown in 1891. At that time, after the enactment of our recent tariff law and a free conference between the sugar planters on the one hand, and the Government officials on the other, a reduction of twenty-five per cent of the taxes on the plantations, including machinery, crops and everything connected with the plantation, was made, on account of the depreciation of the value of sugar.

It will be noticed that of the entire population, including Americans, British and Germans, there are only about four thousand who have absorbed the influences of Anglo-Saxon civilization or comprehend the true spirit of republican government and are socially fitted for full citizenship.

The American Congress, moreover, mindful of a growing sentiment in the United States, is endeavoring to close the entrance of the Atlantic seaboard against the influx of contract laborers, and bar the gates of the Pacific against the hordes of the Asiatic population. Understanding these facts, it is not reasonable to believe that there can exist in the United States any legitimate sentiment, permeating the public, which would demand, or even permit opening the floodgates, and with one fell swoop absorbing into our body politic the heterogeneous population which must, eventually, be endowed with statehood, and all the resultant rights.

Certainly those capable of prognosticating the future, and who are imbued with sufficient patriotism to desire a maintenance of the principles on which depend the future stability of a republican form of government, can never consent to the adoption of such a variegated element into our political compact, however flattering

to the pride, or enticing the consideration inducing Uncle Sam to extend his protecting arm over the isolated isles of the Pacific.

In case of a foreign war, such a possession would certainly be a source of weakness.

It can hardly be contended with reason that an outpost or picket guard stationed there, over two thousand miles from the main body, would be such a protection of our western coast against sudden attack, as would be recommended by a modern military genius.

It would necessitate moving the larger part of our naval fleet into the Pacific, and surrounding the guard in order to preserve them from harm; for, without such a movement, any nation possessing an ordinary naval force would be able to capture our pickets and levy tribute on the residents of the islands at least a week before any news of such a disaster could reach the shores of America.

What is needed, however, is a harbor and coaling station on one of the islands of the group, and a cable extending from Hawaii to some point on United States territory. With these permanently established, they become adjuncts to our commerce, and the relations of Hawaii to the United States, both political and commercial, are no longer problematical, but are fixed by the immutable laws of trade, on a basis of mutual benefit to both countries.

Under an existing treaty, ratified in 1887, and definitely extending for a term of seven years, and then only terminable upon one year's notice, the United States has the exclusive right to enter Pearl River Harbor, on the Island of Oahu, and establish and maintain there a coaling and repair station. No doubt this grant, of an exclusive right to enter and improve the harbor, might by treaty be extended through a long term of years, as by the leases at present granted, there is no subversion from Hawaiian sovereignty, and, therefore, no legitimate opposition could seemingly be raised by those jealous of the integrity of Hawaiian autonomy.

The land contiguous to the harbor is owned by private parties, and the Hawaiian government has not a foot of land to cede, lease, or convey; and whatever right to the adjacent lands the United States might desire to possess, must be obtained by purchase from individual owners, and under Hawaiian laws.

As to cable communication, there is practically a unanimous sentiment in Hawaii in favor of cable communication with the outer world, and a large majority favors a terminus on United States territory, and the government of Hawaii is ready and willing to extend to such project all substantial aid within its power, and which its resources will permit. Such an enterprise, once completed, would greatly strengthen the commercial interests of the two countries, and, by daily contact, firmly cement to the United States the kindly feeling of those who are to control the political future of Hawaii, and largely assist in preserving the autonomy of the kingdom.

With the steamship line already established, and a cable connection with the United States, the people of that Island Kingdom would naturally become imbued with the opinions of their commercial connections, and imperceptibly absorb the sentiments and feelings of those controlling the source of their daily [illegible], thus strengthening what ought to be an indissoluble commercial and political bond. The laying of a cable between the islands and North America I consider no longer problematic. By whose aid, and on what part of the continental coast it shall terminate, is of vast importance to the United States, as by bringing the inhabitants of these islands in daily contact with the world through United States sources would largely and imperceptibly aid the natural gravitation of commerce and political influence to

our country, and would silently yet strongly tend to quiet the periodical unrest natural to a segregated, unsettled community.

To any one acquainted with the climatic influences, the simplicity and wants of the native race, the aggressiveness of the Asiatic, the requirements of the staple industries, and the peculiar labor conditions of that country, it must be apparent that the autonomy of Hawaii is far better adapted to the wants of its people than any other condition. While, on the other hand, so long as the United States maintains its present attitude—embracing that group within the Monroe Doctrine—and keeps an eye of the eagle poised in the direction of Hawaii, the harbor privileges, naval station and cable will accomplish for us all that is desirable, without inflicting any injury on a friendly neighbor, or violating the interests of the American people, or checking the principles of our Government.

A PASSING GLIMPSE OF LAGUNA.

BY CECILIA J. SHAW.

Swart children of the West! In whom the savage
  Still holds a dormant sway!
Mingling the garments of your Christian present
  With barbarous array.

Strange blending shows in short and gay serape
  Of what you were and are
Untutored yet—tho' taught—as when the pale face
  First saw you from afar.

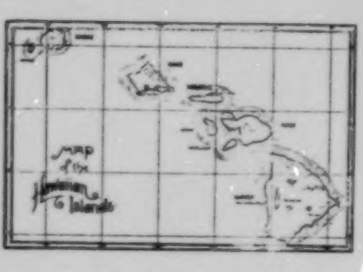
High up, unchanged in years, your vast pueblo—
  Here—rails of steel wind low
There—still the past; between which and the present
  Both races come and go.

Servant, scribe, poet, traveler or painter
  Finds substance for his skill
Unmoved you see his coming—his departure;
  And then—you climb your hill.

When the long trains—fit symbols of the present—
  Pause ere they thunder by,
Erect and stolid stands the swarthy Moqui
  With calm, unheeding eye.

Low sinks the sun; its level rays uplifting
  Th' [illegible] chapel bells;
While as if widowed by a golden clapper,
  The vesper summons swells.

And mounts the Moqui terrace after terrace—
  As if that call sufficed—
To where above the roofless of his village
  Shines out the Cross of Christ.



THE LATE REVOLUTION IN HAWAII.

BY F. R. H.

THE political situation in Hawaii has long been unsatisfactory to the reflecting portion of the community. The population of 90,000, composed in round numbers of 45,000 natives, 15,000 Chinese, 20,000 Japanese, 4,000 Portuguese, 2,000 Americans, 1,000 English and 2,000 other European nationalities, make such a mixture as to render perpetual independent self-government almost an impossibility. The situation has been such as to invite political upheavals and revolutions and keep the country in a constant state of unrest. Within the past six years no less than five revolutionary attempts have been made. With every political disturbance, annexation to the United States has been suggested as the only rational solution of the difficulties existing there.

The question may be asked, why, with such an overwhelming majority of native Hawaiians, and other nationalities outnumbering the Americans, annexation to the United States should be considered the most feasible mode of settling the difficulties? The answer is that the inevitable destiny of the Islands is to pass into the hands of some foreign power, sooner or later. The Chinese and Japanese do not influence the matter, as they are aliens, and have no voice in the government. The Hawaiians are rapidly disappearing, as other aboriginal races have done, at the rate of [illegible] every decade, and the time will soon come when they will cut no figure in the political situation. Then, if not before, some foreign power must step in and assume control, for the country will be too weak to stand alone.

That power must be the United States of America, because the Islands belong (1) geographically, (2) socially and (3) commercially to her in preference to any European nation. (1) Situated in Lat. 21° N., Long. 155° W., the Hawaiian Islands form the hub of the North Pacific and hold the strategic key of that vast expanse of water and the adjoining coasts. The United

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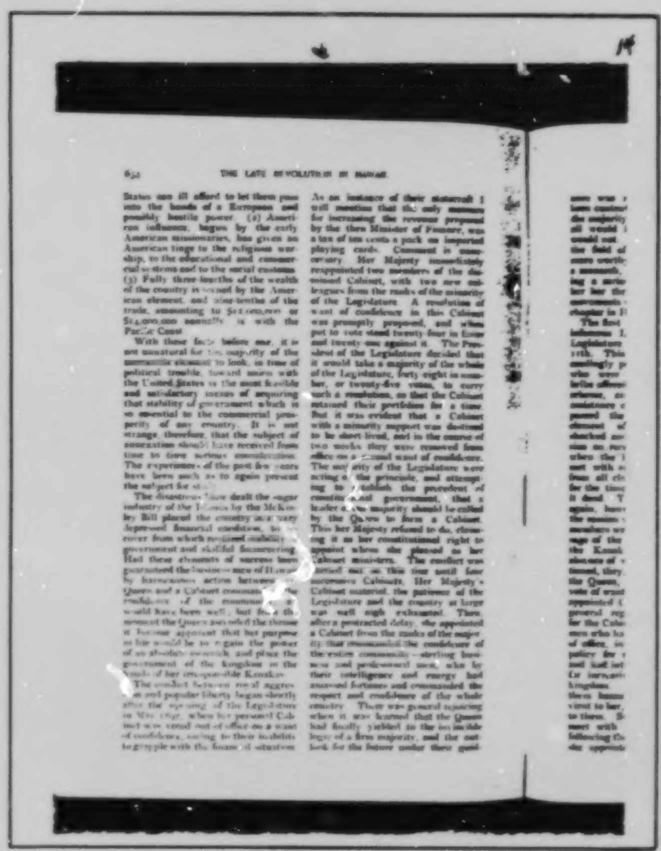

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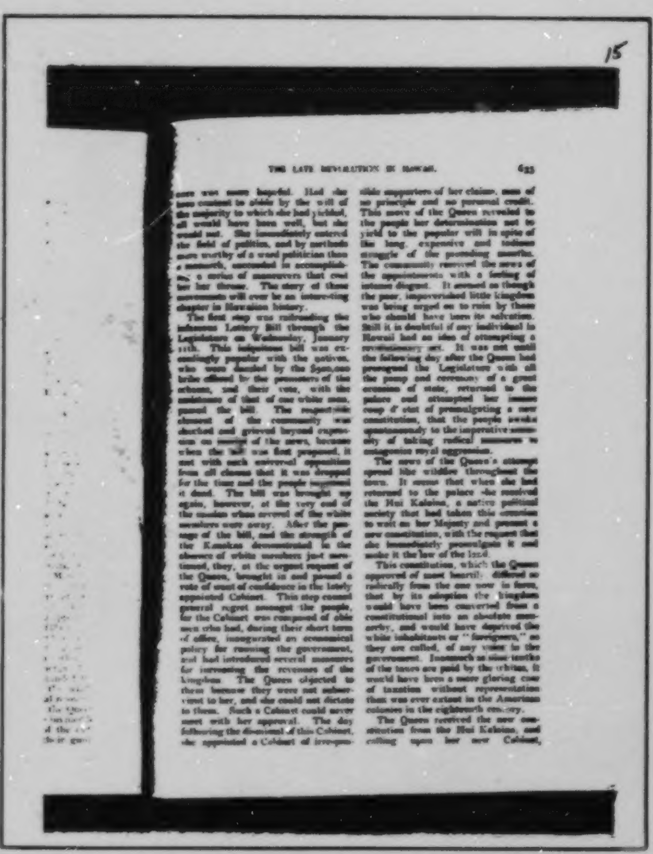
THE LATE REVOLUTION IN HAWAII.



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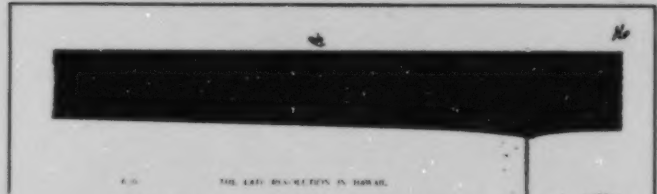

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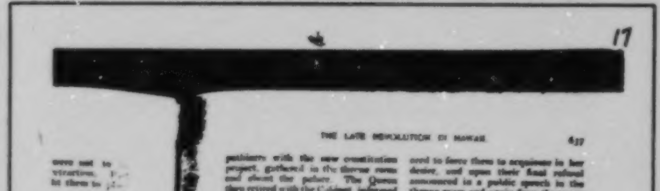
THE LATE REVOLUTION IN HAWAII.



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THE LATE REVOLUTION IN HAWAII.

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ment, attempted to abrogate the existing constitution and proclaim a new one in subversion of the rights of the people;

2. And whereas, such attempt has been accompanied by threats of violence and bloodshed, and a display of armed force, and such attempt and act and threats are revolutionary and treasonable in character;

3. And whereas, her Majesty's Cabinet informed her that such contemplated action was unlawful and would lead to bloodshed and riot and has implored and demanded of her to desist from and renounce such proposed action;

4. And whereas, such advice has been in vain, and her Majesty has in a public speech announced that she was desirous and ready to promulgate such constitution, the same being now ready for such purpose, and that the only reason why it was not now promulgated was because she had met with unexpected obstacles and that a fitting opportunity in the future must be awaited for the consummation of such object, which would be within a few days;

5. And whereas, at a public meeting of citizens, held in Honolulu on the 14th day of January, a committee of thirteen, to be known as the "Committee of Public Safety," was appointed to consider the situation and devise ways and means for the maintenance of the public peace and safety and the preservation of life and property;

6. And whereas, such committee has recommended the calling of this mass meeting of citizens to protest against and condemn such action, and has this day presented a report to such meeting, denouncing the action of the Queen and her supporters as being unlawful, unwarranted, in derogation of the rights of the people, endangering the peace of the community and tending to excite riot and cause loss of life and destruction of property;

Now, therefore, we, citizens of Honolulu, of all nationalities and regardless of political party affiliations, do hereby condemn and denounce the action of the Queen and her supporters;

And we do hereby ratify the appointment and endorse the action taken and report made by said Committee of Safety, and we do hereby further empower such committee to further consider the situation and further devise ways and means as may be necessary to secure the permanent maintenance of law and order and the protection of life, liberty and property in Hawaii.

After reading the report and resolution, Mr. Thurston made a stirring speech on the necessity of immediate and decisive action on the part of the people.

The resolution was seconded in a pithy speech by Hon. H. F. Glade, Austrian Consul and head of the large commission house of H. Hackfeld & Co.

Other speeches were made by Hon. Alexander Young, President of the Honolulu Iron Works, Hon. H. P. Baldwin, a wealthy plantation owner, and others—all advocating the same prompt and decisive action. The resolution was unanimously adopted amidst tremendous applause.

As soon as the committee had received the support of the citizens, they immediately set to work to carry out the plans they had perfected. They began the work of enrolling a volunteer force of riflemen.

In the meantime, the American minister to the Hawaiian Court, Mr. J. L. Stevens, in response to a request from American citizens for protection of life and property, ordered Commander Wiltse of the U. S. S. *Boston* to land sailors and marines for that purpose. Detachments were placed on guard at the U. S. Consulate and the U. S. Legation, but the main body encamped at Arion Hall, a public building near the Government buildings.

By Tuesday morning between 200 and 300 volunteers were on the rolls.

The plan was to seize the Government building and Treasury and depose the Queen; but it was feared that the Queen, supported by the Marshal of the kingdom with a well-armed force consisting of the police and the household guards, would make a stubborn resistance, and a fierce conflict seemed inevitable.

This was the situation on Tuesday morning, January 17th. The community was wrought up to the highest pitch of excitement. The intensity of suspense was upon it. None could tell what the day would bring forth, but there was every reason to fear a bloody strife before nightfall.

At 2 P. M., the volunteers began to assemble at the armory. About this time occurred the only disaster of the day. The ammunition wagon belonging to the revolutionists was about to

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drive out of the yard of E. O. Hall & Son, hardware merchants, when a native policeman, detailed for that duty, attempted to arrest the driver. He grabbed the horses' bridle and ordered him to halt. A rifleman in charge of the wagon shouted to him to let go, but the policeman continued faithful in his attempt to discharge his duty. Thereupon the rifleman leveled his revolver at him and shot. The bullet passed through the policeman's body, but fortunately missed wounding any vital organ. The wagon was driven rapidly to the armory, the ammunition distributed and the riflemen formed into squads. They then marched to the Government building without molestation, and were drawn up in line in the grounds in front of the main entrance. The keys of the building and of the Treasury were demanded of Mr. J. A. Hassinger, the chief clerk of the Interior Department, and by him delivered to the attacking party. Not a shot was fired—not a move made to oppose the little force.

As soon as the leaders of the movement had secured control of the Government building, they convened the Supreme Court of the kingdom consisting of His Excellency A. F. Judd, Chief Justice; His Excellency R. F. Bickerton, First Associate Justice and His Excellency S. B. Dole, Second Associate Justice. The Court declared the Queen a traitor for having attempted to promulgate a new constitution, after having given her solemn oath to support the one then in force, and the throne consequently vacant.

The Committee of Public Safety immediately issued the following proclamation, establishing a Provisional Government:

"In its earlier history, Hawaii possessed a constitutional Government honestly and economically administered in the public interests.

"The crown called to its assistance as advisers able, honest and conservative men whose integrity was unquestioned even by their political opponents.

"The stability of the Government was assured; armed resistance and revolution unthought of; popular rights were respected; and the privileges of the subject from time to time increased, and the prerogatives of the sovereign diminished by the voluntary acts of the successive Kings.

"With very few exceptions this state of affairs continued until the expiration of the first few years of the reign of his late Majesty Kalakaua. At this time a change was discernible in the spirit animating the chief executive and in the influences surrounding the throne. A steadily increasing disposition was manifested on the part of the King to extend the royal prerogatives; to favor adventurers and persons of no character or standing in the community; to encroach upon the rights and privileges of the people by steadily increasing corruption of electors, and by means of the power and influence of office-holders, to illegitimately influence the elections, resulting in the final absolute control of not only the executive and legislative, but to a certain extent the judicial departments of the Government in the interests of absolutism.

"This finally resulted in the revulsion of feeling and popular uprising of 1887, which wrested from the King a large portion of his ill-gotten powers.

"The leaders of this movement were not seeking personal aggrandizement, political power or the suppression of the native Government. If this had been their object it could easily have been accomplished, for they had absolute control of the situation.

"Their object was to secure responsible government through a representative Cabinet, supported by and responsible to the people's elected representatives. A clause to this effect was inserted in the constitution and subsequently enacted by law by the Legislature, specifically covering

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the ground that in all matters concerning the state the sovereign was to act by and with the advice of the Cabinet, and only by and with such advice.

"The King willingly agreed to this proposition, expressed regret for the past and volunteered promises for the future.

"Almost from the date of such agreement and promises up to the time of his death, the history of the Government has been a continual struggle between the King on the one hand and the Cabinet and Legislature on the other, the former constantly endeavoring by every available form of influence and evasion to ignore promises and agreements and regain his lost powers.

"This conflict upon several occasions came to a crisis, followed each time by submission on the part of his Majesty, by renewed expressions of regret, and promises to abide by the constitutional and legal restrictions in the future. In each instance such promises were kept until a future opportunity presented itself, when the conflict was renewed in defiance and regardless of all previous pledges.

"Upon the accession of her Majesty Liliuokalani, the hope prevailed for a brief period that a new policy would be adopted. This hope was soon blasted by her immediately entering into conflict with the existing Cabinet, who held office with the approval of a large majority of the Legislature, resulting in the triumph of the Queen and the removal of the Cabinet. The appointment of a new Cabinet subservient to her wishes, and their continuance in office until a recent date, gave no opportunity for further indication of the policy which would be pursued by her Majesty until the opening of the Legislature in May of 1892.

"The recent history of that session has shown a stubborn determination on the part of her Majesty to follow the tactics of her late brother, and in all possible ways to secure an extension of the royal prerogatives and an abridgement of popular rights.

"During the latter part of the session the Legislature was replete with corruption; bribery and other illegitimate influences were openly utilized to secure the desired end, resulting in the final complete overthrow of opposition, and the inauguration of a Cabinet arbitrarily selected by her Majesty in complete defiance of constitutional principles and popular representation.

"Notwithstanding such result the defeated party peacefully submitted to the situation.

"Not content with her victory, her Majesty proceeded on the last day of the session to arbitrarily arrogate to herself the right to promulgate a new constitution, which proposed among other things to disfranchise over one-fourth of the voters and the owners of nine-tenths of the private property of the kingdom, to abolish the elected upper house of the Legislature and to substitute in place thereof an appointive one to be appointed by the sovereign.

"The detailed history of this attempt and the succeeding events in connection therewith is given in the report of the Committee of Public Safety to the citizens of Honolulu, and the resolutions adopted at the mass meeting held on the 16th inst., the correctness of which report and the propriety of the resolution is hereby specifically affirmed.

"The constitutional evolution indicated has slowly and steadily though reluctantly and regretfully, convinced an overwhelming majority of the conservative and responsible members of the community that independent, constitutional, representative and responsible government, able to protect itself from revolutionary uprisings and royal aggression, is no longer possible in Hawaii under the existing system of government.

"Five uprisings or conspiracies against the Government have occurred within five years and seven months.

It is firmly believed that the culminating revolutionary attempt of last Saturday will, unless radical measures are taken, wreck our already damaged credit abroad, and precipitate to final ruin our already overstrained financial condition; and the guarantees of protection to life, liberty and property will steadily decrease, and the political situation rapidly grow worse.

"In this belief, and also in the firm belief that the action hereby taken is and will be for the best personal, political and property interests of every citizen of the land, we, citizens and residents of the Hawaiian Islands, organized and acting for the public safety, hereby proclaim as follows:

1. The Hawaiian monarchical system of government is hereby abrogated.

2. A provisional government for the control and management of public affairs and the protection of the public peace is hereby established, to exist until terms of union with the United States of America have been negotiated and agreed upon.

3. Such provisional government shall consist of an executive council of four members, who are hereby declared to be S. B. Dole, J. A. King, P. C. Jones and W. O. Smith, who shall administer the executive departments of the Government, the first-named acting as president and chairman of such council and administering the Department of Foreign Affairs, and the others severally administering the Departments of Interior, Finance and Attorney-General, respectively, in the order in which enumerated, according to existing Hawaiian law so far as may be consistent with this proclamation; and also of an advisory council which shall consist of fourteen members who are hereby declared to be: S. M. Damon, A. Brown, L. A. Thurston, J. F. Morgan, J. Emmeluth, H. Waterhouse, J. A. McCandless, E. D. Tenney, F. W. McChesney, F. Wilhelm, W. R. Castle, W. G. Ashley, W. C. Wilder, H. Bolte. Such advisory council shall also have general legislative authority. Such executive and advisory council shall, acting jointly, have power to remove any member of either council, and to fill such or any other vacancy.

4. All officers under the existing Government are hereby requested to continue to exercise their functions and perform the duties of their respective offices, with the exception of the following named persons: Queen Liliuokalani; Charles B. Wilson, Marshal; Samuel Parker, Minister of Foreign Affairs; W. H. Cornwell, Minister of Finance; John F. Colburn, Minister of Interior; Arthur P. Peterson, Attorney-General, who are hereby removed from office.

5. All Hawaiian laws and constitutional principles not inconsistent herewith shall continue in force until further order of the executive and advisory councils.

Word was immediately sent to the representatives of the foreign powers of the change in the government and requesting their recognition.

Minister Stevens, after having satisfied himself of the truth of the statements, very promptly recognized the new government by the following note:

UNITED STATES LEGATION,
HONOLULU, H. I., Jan. 17, 1893.

A provisional government having been duly constituted in place of the recent government of Queen Liliuokalani and said provisional government being in full possession of the government buildings, the archives and the treasury, and in control of the Capital of the Hawaiian Islands, I hereby recognize said provisional government as the *de facto* government of the Hawaiian Islands.

JOHN L. STEVENS,
Envoy Extraordinary and Minister Plenipotentiary of the United States.

Recognition promptly followed from the representatives of Germany, France, Portugal, Russia, Austria, Norway and Sweden, Italy, Spain, Mexico, and several South American States.

Great Britain and Japan were the only countries that refused to recognize the new government.

As soon as the members of the provisional government received the recognition of the American minister, word was sent to the Queen's Cabinet demanding the surrender of the police station and the barracks, which were still in the royal possession. A compromise proposition was made by her Majesty's Cabinet which was promptly refused by the provisional government, and finally the Queen yielded, after having issued the following protest:

I, Liliuokalani, by the grace of God and under the Constitution of the Hawaiian Kingdom, Queen, do hereby solemnly protest against any and all acts done against myself and the constitutional government of the Hawaiian Kingdom by certain persons claiming to have established a provisional government of and for this kingdom.

That I yield to the superior force of the

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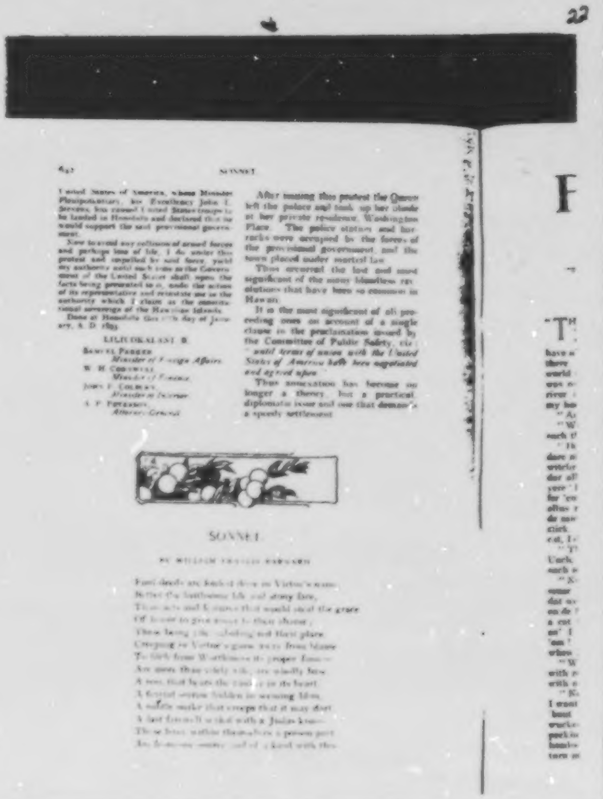
[redacted]



642 SUNSET

United States of America, whose Minister Plenipotentiary, his Excellency John L. Stevens, has caused United States troops to be landed in Honolulu and declared that he would support the said provisional government.

Now to avoid any collision of armed forces and perhaps loss of life, I do under this protest and impelled by said force, yield my authority until such time as the Government of the United States shall, upon the facts being presented to it, undo the action of its representative and reinstate me in the authority which I claim as the constitutional sovereign of the Hawaiian Islands.

Done at Honolulu this 17th day of January, A. D. 1893.

LILIUOKALANI R.

SAMUEL PARKER
Minister of Foreign Affairs
W. H. CORNWELL
Minister of Finance
JOHN F. COLBURN
Minister of Interior
A. P. PETERSON
Attorney-General

After issuing this protest the Queen left the palace and took up her abode at her private residence, Washington Place. The police station and barracks were occupied by the forces of the provisional government, and the town placed under martial law.

Thus occurred the last and most significant of the many bloodless revolutions that have been so common in Hawaii.

It is the most significant of all preceding ones on account of a single clause in the proclamation issued by the Committee of Public Safety, viz: "*until terms of union with the United States of America have been negotiated and agreed upon*."

Thus annexation has become no longer a theory, but a practical diplomatic issue and one that demands a speedy settlement.

SONNET

JOHN DOMINIS HOLT

January 17, 1983

Kina'u Boyd Kamalii
Chairman
Native Hawaiians Study Commission
P.O. Box 50247
Honolulu, Hawaii 96850

The search for a viable answer to the issue of reparations resulting from the overthrow of Hawaiian Monarchy should be a short and simple one. By far the most compelling document outlining and detailing events that led to the destruction of Queen Liliuokalani's reign is the message of President Grover Cleveland to Congress in 1893.

Look at the facts in the statement issued by the man holding highest office in the United States during those painful days, following the overthrow of Queen Liliuokalani.

President Cleveland tells clearly who were the main persons behind the so called revolution and what their interests might have been in perpertrating the scurrilous deed.

The position of America's official representative in Hawaii, John L. Stevens is clearly delineated in President Cleveland's message to congress. President Cleveland recommended restoration of the Hawaiian government and clearly stated the role of the United States in effecting destruction of the Hawaiian nation.

Reparations? There should be no question that such is due the Hawaiian people now. How and when should be the issue under consideration - not justification. The latter seems firmly established.

John Dominis Holt
John Dominis Holt

3180 Pacific Hts. Rd., Honolulu, Hawaii 96813

November 19, 1982

TO: THE NATIVE HAWAIIAN STUDY COMMISSION

FROM: Mrs. Violet Ku'ulei Thoms VKT

SUBJECT: Reactions to the Native Study Commission's Draft Report

General Comments and Recommendations

1. The Report as a whole was fairly well-researched inspite of the missing and incomplete sections. This document will be valuable especially for students who must have at least one semester of study of the modern history of Hawai'i before graduation. As a teacher, I find this Report very informative, easy to read, for the most part.
   I've chosen not to comment on Part II because my knowledge of the subjects discussed is very poor. My work is with the culture and history of Hawai'i.

2. Copies of the Report were very difficult to obtain for study purposes. A number of my professional associates were turned off by this fact but wanted to respond in some way. Several of us met to discuss the Report and found that there wasn't enough time to digest the Report nor make constructive comments to assist the Commission in its work.
   One of the recommendations of a number of my associates was to ask that the Commission take the Report to the community; explain the work of the Commission; the importance of the Report and its implications for the future of Hawai'i. The lack of response from "the grassroots" does not mean a lack of interest, rather, it means people don't understand and won't ask for help or are ashamed to ask!

3. Technically, I'm sure that the Report will be edited and re'written in one consistent form and style with as little "legal-ese" as possible. There is inconsistent use of diacritical marks on the Hawaiian words. Some Hawaiian words are capitalized, some not; some are pluralized and should not be.
   In some sections as in Part II, Chapter I, the use of Hawaiian words in the narrative break the thought and continuity of the Report. The Hawaiian words may only have real meaning to those who use them regularly and often.

4. Quotes from several authors and references show their editorial comments and biases. I'm sure that lack of time did not allow for using more original research materials instead the popular research materials used.

5. Two of (what I consider) the most important sections to help understand the Hawaiian are not included in the Report. One is on the values upon which Hawaiian society was based and built. The other was on religion. The so-called facts on religion are easy to put together but what about the effects of the persistence of some of the beliefs and practices on Hawaiian society today and in the future?

Specific Concerns

1. Part I, Chapter III. Education
   a. Was not the Hawaiian Chiefs Children's School (the Royal School) not started at the request of Kamehameha III?
   b. The territory-wide school system is implied but not spelled out. There should be some materials included on our present statewide system of education and its many good points.
   c. There is no material on the history of the University of Hawai'i and its beginnings as a land grant college. The Laboratory Schools of the College of Education was known for its innovative teacher training program yet only negative comments are made of how badly teachers were trained, etc.
   d. Criticisms on education are one-sided. Where are the opinions of teachers in the field, administrators, parents, retirees?
   e. Programs by Ala Like, the Hawaiian Civic Clubs, canoe clubs, halau hula are not mentioned as doing educational work.
   f. There needs to be included the fact there are many more Hawaiian students in public schools than are in private and/or private schools.
2. Chapter I. History
   a. The Chapter as a whole is easy to read, informative and easily understood.
   b. There are more updated reference materials, such as for the explanation of the migrations. Why were the migrations closed? What is meant by "new and superior"?
   c. Makahiki was not only for "sports and pastimes", but more important, it was the time to collect taxes.
   d. The kauwa class is not mentioned though it was an important part of the social structure. The chiefly could also be born into power.
   e. Need better explanation of the kapu system of laws and its importance in keeping and maintaining order.
   f. Page 109, paragraph 3 and page 111, paragraph 3: quotes are conjecture by the historian and should be so indicated.
   g. Page 113, paragraph 1: Hawaiians did prepare for spiritual hereafter.

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b. More needs to be written about Kamehameha I, the man and leader, not only about his achievements. His reign was the beginning of a new Hawai'i.

3. Chapter VI. Culture

a. Much is going to be written about the importance of the language but there is nothing on such categories as arts and crafts - the featherwork, lei making, net making, gourd crafts, fishing, medicine and the adaptations of "native crafts" for modern day use.
b. Page 131, under music and dance, the outlining of the topics is not logical.

c. Sports does not include pastimes past and present and the persistence of some pastimes.

d. Architecture does not seem to have anything to do with the Hawaiians except that the Hawaiians were wonderful at adapting the new to their use.

e. Page 147: why the APPENDIX? Of what relevance is the section to any part of the Report?

I'm sorry that I wasn't able to digest the report more thoroughly. There just wasn't enough time and I wasn't able to have a copy long enough to take time and better notes.

If there are any questions regarding my comments, I would be happy to be of assistance. I can be reached at my office on any school day:

Bernice Pauahi Bishop Museum
1525 Bernice Street
phone: 847-3511, ext. 127

or at home:
[illegible]
Honolulu
phone: 988-3685

Mahalo for allowing me to participate!

DANIEL K. INOUYE
[illegible]

United States Senate
[illegible]

[illegible]

November 23, 1982

The Native Hawaiians Study Commission
Department of the Interior
18th and C Streets, N.W.
Room 6220
Washington, D.C. 20240

Dear Sirs:

Enclosed is one copy of my comments on the Draft Report of Findings of the Native Hawaiians Study Commission. I ask that it be made part of the public reocrd of the Commission.

Aloha,

DANIEL K. INOUYE
United States Senator

DKI:jmpl
Enclosure

73

COMMENTS BY SENATOR DANIEL K. INOUYE

ON

THE DRAFT REPORT OF FINDINGS OF

THE NATIVE HAWAIIANS STUDY COMMISSION

NOVEMBER 23, 1982

TABLE OF CONTENTS

PART I. Page
A. Preliminary Statement 1
B. Conclusion 2
C. Summary of Arguments. 2
Historical Review 3
Legal Analysis. 5

PART II. Historical Review
A. Methodology 7
B. Bayonet Constitution of 1887. 14
C. Role of the United States Government Relative to the Annexationists. 18
D. Role of the United States Government in the Revolution of 1893. 20
E. Use of Facts. 23
F. International Law 26

PART III. Legal Analysis 30

PART I

Pursuant to Public Law 96-565 and the September 23, Notice of The Native Hawaiian Study Commission (Commission), the following comments are submitted on the Draft Report of Findings (Report) of the Commission.

The analysis and conclusions herein expressed represent my personal assessment of the Report and are in no way intended to reflect the official position of the U.S. Senate or any of its Committees.

A. Preliminary Statement

The Report expressly states that a "full review of the history of United States relations with Hawaii is essential to an evaluation of Hawaiian native claims," and that an (impartial) "analysis of the causes of the fall of the monarchy and annexation" are "crucial to this study." (p. 176). It also finds that "existing law provides no basis for compensation to native Hawaiians for any loss of lands or loss of sovereignty." (p. 243).

The Commission's next step is "to consider whether it should recommend that, as a matter of policy, taking all of the facts of (the) Report into account, Congress should take action on compensation here." (p. 243).

I agree that "a full review of the history" is essential, and that impartial "analysis of the causes of the fall of the monarchy and annexation are crucial."

However, by its failure to meet either stated goal, the Report is, by its own standards, fatally flawed.

Moreover, inasmuch as the Commission's Report was to have been a "report of findings", impartially arrived at, I question the appropriateness of selecting the Department of Justice to examine existing laws to determine whether they provide a basis for compensation to native Hawaiians for any loss of lands or loss of sovereignty.

This is also true of the use of a U.S. Naval Historian to buttress the Federal Government's claim of lack of culpability in the 1893 Revolution.

Aside from the question of impartiality, I also believe the Report's analysis of existing law on the question of the Government's liability is faulty.

B. Conclusion

If the Report is adopted in substantially its present form, the cause of the native Hawaiians will be severely damaged. No matter what the Commission may, as a matter of discretion, recommend in terms of remedial legislation, the underlying "findings" concerning the right to relief of native Hawaiians will be so negative as to assure the defeat of any such remedial legislation.

C. Summary of Argument

The Report is neither a "full review of the history of United States relations with Hawaii," nor an impartial

"analysis of the causes of the fall of the monarchy and annexation".

1) Historical Review

(a) The Report is deficient in its historiographical methodology and provides no new insights into outstanding historical issues. It relies almost totally on secondary sources and there is no evidence of any attempt to search several major archival sources. It fails to deal with the specific adverse conclusions in the Blount report, while according equal credibility to the Morgan report, which is highly suspect because of the way in which it was prepared and because it was not unanimous. There is little attempt to place the revolution and the annexation in a larger global diplomatic context, which in turn greatly affected events in Hawaii. Furthermore, while it was in the interest of the Commission to preserve absolute objectivity in the preparation of the Report both in fact and in appearance, the assignment of a United States Government employee to write the history of an event in which the United States is a party of interest will inevitably

raise questions about its objectivity. Finally, there are several minor errors which should be corrected.

(b) The Report fails to inquire into the possible role of the United States Government in the acceptance of the "Bayonet Constitution" of 1887, and in thwarting subsequent efforts by native Hawaiians to overturn that Constitution in 1889, and to revise it in 1890. It also fails to consider the possibility of a cause-and-effect relation between that Constitution and the fall of the monarchy in 1893.

(c) The Report ignores the role of the U.S. Government in encouraging the annexationists (and therefore the rebellion) in 1892.

(d) The Report's fundamental conclusion as to why the monarchy fell begs the question. It may be that the fall of the monarchy was "primarily the result of a power struggle between supporters of the monarchy and the monied 'haoles'" (p. 188), but for purposes of the Report, the question should be: was the role of the U.S. Government significant or decisive to the outcome?

(e) The Report's characterization of events during the crucial days in January, 1893, which culminated in the fall of the monarchy and recognition of the Provisional Government, rests on a selective use of the facts regarding the activities of the annexationists, U.S. Minister Stevens, the U.S. Navy and Marines, and Queen Liliuokalani.

(f) The Report fails to address the international legal issues posed by revolution and the involvement of the United States in the Hawaiian Kingdom's overthrow. International law attempts to prescribe certain principles of conduct and to provide a framework for the rule of law in international relations. Since Hawaii was a sovereign nation, the United States was obliged to conduct its relations with the Royal Government in accordance with accepted legal principles of the time. An analysis indicates that the United States Minister failed to do so and thereby fatally compromised the Government of the United States.

2) Legal Analysis

(a) The Report's finding that there is no basis in existing law for native Hawaiians to claim compensation from the United States for loss of land or sovereigntyis irrelevant. The task of the Commission was to ascertain

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whether a legislative remedy for native Hawaiian claims was appropriate under the circumstances, not to try to force-fit these claims within an existing legal framework. Therefore, in this respect, the Commission's focus was wide of the mark. Likewise, the claims histories of other aboriginal groups, while relevant, should not have fixed the parameters of the Commission's inquiry. A broader and less constrained perspective would have afforded the Commission a greater opportunity to achieve its basic mandate, namely, to ascertain whether the claims of native Hawaiians had any moral legitimacy, and, if so, what remedy should be fashioned.

(b) Moreover, even if the question were in point, given its institutional bias, the Department of Justice was hardly the appropriate party to perform the legal analysis on the question of the Government's liability for such claims.

(c) in any event, the Report's analysis of existing law in support of its finding that there is no basis for Government liability is faulty.

PART II - HISTORICAL REVIEW

A. The Report is deficient in its historiographical methodology and in historical interpretation. It is neither a "full review of this history of United States relations with Hawaii," nor an impartial "analysis of the causes of the fall of the monarchy and annexation".

1) The Report purports to be the "most complete compilation of data and information on native Hawaiians that has ever been collected in one volume." (Preface)

However, its historical portions, especially the sensitive Chapter II of Part II, rely almost totally on secondary historical sources, principally Ralph S. Kuykendall's multi-volume The Hawaiian Kingdom. The very few primary sources cited consist mainly of the Congressional Record, National Naval Archives, and the Senate hearings and reports. I would note that there are several major archives which could and should have been consulted, including the following:

University of Hawaii Library, Hawaiian Collection

Diary of William R. Castle, one of the five annexationist commissioners sent to Washington.

Library of Congress, Manuscript Division

Papers of the following individuals connected with the Hawaiian situation: Thomas F. Bayard, Secretary of State; President Grover Cleveland, John W. Foster, Secretary of State;

Walter Q. Gresham, Secretary of State; Senator John T. Morgan; Richard Olney, Secretary of State; and Senator John Sherman.

Maine Historical Society, Portland

Papers of John L. Stevens, United States Minister to Hawaii.

Massachusetts Historical Society, Boston

Papers of Senator Henry Cabot Lodge.

National Archives, Record Group 59
General Records of the Department of State

This file contains diplomatic instructions, dispatches, and notes for period under discussion.

Stanford University Library, Stanford, California
Department of Special Collections.

Papers of Senator Stephen M. White.

State Archives of Hawaii, Honolulu, Hawaii

This file contains the letterbook of the Executive Council of the Provisional Government of 1893; the papers of Francis M. Hatch (annexationist), Lorrin A. Thurston, Stanford B. Dole, William O. Smith (annexationist), and Queen Liliuokalani.

It is likely that other archival resources exist, but the constraints imposed by the Commission's deadline for public comment preclude a more comprehensive search at this time.

The overreliance on secondary sources has resulted in a report that only reinforces the standard and narrow perspective with no new insights into the controversial activities of the revolutionaries prior to and during the 1893 Revolution and of American Minister John Stevens and the sequence of events of

January 17, 1893. I agree that Chapter II of Part II is "particularly sensitive and crucial to this study," and for that reason new, original initiatives should have been undertaken by the Commission to attempt to provide a definitive account of this period.

2) The bias of the Report is most apparent when it accords the so-called "Morgan Report" (Report of the U.S. Senate Committee on Foreign Relations Relative to Hawaiian Matters, S. Rept. 52-227 2d Sess. 1894) virtually equivalent historical validity as the Blount Report (House Executive Doc. No. 47, 53rd Congress, 2d Sess.). Although the draft Commission report correctly notes that the objectivity of both reports has been questioned, there are substantial differences between the methods by which the contradictory conclusions of the two reports were reached.

(a) The Morgan Committee never conducted hearings in Hawaii, unlike Commissioner James Blount who spent more than four months conducting an on-site investigation into the revolution.

(b) Commissioner Blount interviewed parties on both sides of the conflict and produced a detailed and exhaustive document. As has noted by a diplomatic historian,"... the factual background of its story of the revolution cannot easily be

disputed."[1]

In contrast, Senator Morgan allegedly "asked many provocative leading questions, phrased appropriately to bring out the facts or impressions he wished to emphasize, and frequently interrupted the testimony and answers abruptly, or shrewdly directed them to other channels when they threatened to become derogatory. The Republican annexationist members of the committee interjected numerous queries intended to place the President, his Secretary of State, and his special 'paramount' commissioner either in error or in bad light."[2]

The Hawaiian side was neither presented nor explained except by Blount. Furthermore, only Morgan endorsed all the report's conclusions, and the members split according to party affiliation.

Citing the Morgan Report as an authoritative source of information thus may be construed as deliberately preventing a factual determination of the circumstances surrounding the revolution, especially the role of United States Minister Stevens and the impact of the U.S.S. Boston. The Commission should qualify the significance of the Morgan Report by noting fully and accurately the reservations of professional historians.

3) The revolution and the subsequent annexation of Hawaii by the United States occurred at a time of American expansion in the Pacific and Caribbean, culminating in a decade in which the

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1/ Dulles, Foster Rhea. America on the Pacific: A Decade of Expansion, New York, Da Capo Press, 1969, p. 179.

2/ Tate, Merze, The United States and the Hawaiian Kingdom, New Haven, Yale Univ. Press, 1965, pp. 252-253.

United States acquired Hawaii, Samoa, Puerto Rico, the Philippines, and Guam. The report should provide a more detailed examination of the larger historical context in which the revolution and annexation occurred. For example, two additional recent studies dispute some of the conventional views on Hawaiian annexation. William Michael Morgan, in an article in Diplomatic History, Vol. 6, No. 1 (Winter 1982) argues that it was the anti-Japanese climate in the United States in the mid-1890's that was largely responsible for the ultimate annexation of Hawaii in the McKinley administration.

Thomas J. Osborne in his book "Empire Can Wait" American Opposition to Hawaiian Annexation, 1893-1898 (Kent State University Press, 1981), on his part claims that historians have exaggerated the role played by the Spanish-American War in overcoming the opposition to Hawaiian annexation. He points out that the appeal of the Asian market, the concern about the economic partitioning of China by rival powers, the upturn of American trade in mid-1898, and the expectation of increasing American-Hawaiian commerce, were decisive factors contributing to the annexation of Hawaii in 1898.

Older accounts to which no reference is made include Thomas Bailey, A Diplomatic History of the American People; Foster Rhea Dulles, America on the Pacific: A Century of Expansion; and William Russ, The Hawaiian Revolution.

The security interest of the United States is conceded on

page 199 of the Report, which also acknowledges that Stevens was strongly pro-annexationist (p. 192). These two facts are significant and intimately related, for they explain the rationale for the active involvement of the American Minister and the intervention of United States naval forces in the events of January 17, 1893. The draft report provides only marginal information relative to the political and economic motivations for the United States' interest in annexing Hawaii, whose territorial integrity had already been compromised under the Hawaii-United States Reciprocity Treaty of 1875.

The active participation of United States troops in 1893, therefore, was preceded by several decades of American interest in acquiring certain strategic advantages in Hawaii. The intervention of American naval forces, which was not justified by danger to American lives or property, is comprehensible only with an understanding of contemporary national intellectual and political currents.

4) The Commission was directed to draft an impartial report. The processes of democratic government must be fair in fact and give the appearance of fairness. Because the United States Government is a party of interest with respect to the history of the revolution, Hawaiian-American relations, and the claims issue, it was inappropriate for the Commission to assign the drafting of Part II of the Report to United States Government employees.

Without impugning the integrity or professional competence of the writers, I must emphasize that the United States Government has a direct economic and political stake in disproving the basis for a claim for Hawaiian reparations or compensation. By giving a United States Government employee the responsibility for writing the historical chapters of the Report, the Commission has created understandable doubts as to whether agents of the American Government can provide an objective and trustworthy historical assessment of this period which might contradict the interests of their employer.

Moreover, it appears that the writers failed to solicit the views of other professional historians who specialize in this period and area. Consequently, the draft represents the work of a two-person team without the substantive contribution which others could have made if they had been presented with the opportunity to review the draft. Even though the Report is now open to comment and possible revision, it is my impression that the procedures followed indicate an unwillingness to submit these findings to private professional critique.

3) There is a minor factual error on page 195. It was Henry E. Cooper, not H.E. Carter, who read the proclamation of the new government. Also, there is a misleading sentence on page 197, which states that a "fact-finding commission headed by Representative James Blount arrived at the Islands", implying that there were several members on the commission which in fact

consisted of only one person. On page 190, the authors mean the election of 1892, not 1893.

5. A full and fair understanding of political and legal developments in the Kingdom of Hawaii during the critical years covered by the Report must take into account the tremendous external and internal pressures exerted on the Kingdom at that time. First, it is to be remembered that the Kingdom of Hawaii was relatively new to the ways and wiles of the Western world. Second, it was vulnerable to the pressures of a very aggressive alien resident class, particularly the American expatriate element and to the pressures of foreign nations, notably the United States. Third, the Hawaiian Kingdom was undergoing dramatic social and political changes, as is the case with all developing nations.

All of these pressures had to have some impact on the Kingdom of Hawaii and its ability to control its own affairs. There was substantial interference, and the Kingdom had to make many adjustments. To the extent that the United States condoned, participated in or enjoyed the benefits of the coercive activities of the American expatriate group, it had and continues to have a moral, if not legal, responsibility for any injury caused the native Hawaiians as a result.

The Report fails to inquire into: (a) the possible role of the United States Government in the acceptance of the "Bayonet Constitution" of 1887, and in thwarting subsequent efforts by

native Hawaiians to overturn that Constitution in 1889, and to revise it in 1890; (b) and the possibility of a causal connection between the "Bayonet Constitution" and the fall of the monarchy in 1893.

While the "Bayonet Constitution" was chiefly the work of the American expatriate element, to leave it at that takes too simplistic a view of what happened, in my judgment. Especially where, as here, the question is whether the United States has a moral responsibility for any injury caused native Hawaiians as a result of the fall of the monarchy and annexation. The efforts of the United States Government to bring the Kingdom of Hawaii within its sphere of influence were manifest by a number of official acts over several years before the Constitution of 1887. In and of itself this should have been sufficient reason to inquire whether the United States had any role in gaining acceptance of that Constitution and if that Constitution precipitated or contributed to the fall of the monarchy. But there are further reasons which I believe suggest that such an inquiry should have been undertaken.

We know, for example, that King Kalakaua sought the advice of the United States Minister on July 27, 1887, when he was faced with the prospect of a revolution led by the Committee of Thirteen. In my view, it would be reasonable and relevant to inquire whether at that meeting he also sought the aid of the United States to head off the efforts of that Committee. In any event, the United

States Minister told the ruling monarch of the Kingdom of Hawaii that he must stop meddling in the public affairs of his Kingdom. Four days later, in a final effort to preserve the monarchy, King Kalakaua called in the ministers of the major powers, including the United States Minister, to tell them the country was being taken over and that "he wanted to place the kingdom in their hands." They refused to accept. It seems to me that the attitude of the U.S. Minister suggests the real possibility that the United States may have aided or at least tacitly encouraged the revolutionary activities of the Committee of Thirteen.

The Report expressly recognizes that the interval between the Constitution of 1887 and the installment of the Provisional Government in 1893 was marked with sporadic attempts by native Hawaiians to regain some measure of their power. But here again there is no attempt to assess the role, if any, of the United States in thwarting these attempts.

With respect to the attempt in 1889 to overturn the Constitution, all the Report tells us is that "the insurrection was quelled". The Report also admits that the American and British ministers "persuaded" King Kalakaua to disavow his previous public support of efforts in the following year to revise the Constitution. The Report expressly recognizes that a United States naval squadron was in Hawaii in 1890, and its Commander, Rear Admiral George Brown, was prepared to move in the event the attempt to revise the Constitution materialized.

Clearly, there is much more to say about the role and influence of the United States during the period 1887-1893, and the Report simply fails to address this issue.

While this shortcoming may be bad history, I recognize that it would not be fatal to the task of the Commission, unless the "Bayonet Constitution" itself substantially contributed to the fall of the monarchy in 1893. I believe a strong case can be made that it did. But once again, the Report is devoid of analysis or findings even though it expressly recognizes that the "Bayonet Constitution ended much of the monarchy's power and effectively brought control of the Government within the sphere of the planters and merchants."

The Report states that "The Constitution of 1887 was a key in the changing scope of Hawaiian politics." Among other things, its provisions had the effect of placing the legislature in the hands of the Reform Party, which was made up largely of Hawaiian-born Americans and Europeans, and resident foreigners.

The Reformers also set themselves to remove every trace of King Kalakaua's influence in the running of the Kingdom. There was, for example, a wholesale purge of the Government service; the board of genealogists, and the native Hawaiian board of health were abolished; the control of the Kingdom's armed forces was taken from the royal Generalissimo and given to the minister of foreign affairs; and the young Hawaiians being educated in Europe were ordered home. According to one historian, the effect of all

of this was to "knock Kalakaua over and bind him hand and foot."[3] The Report is virtually silent on these events, and hence does not assess their significance. For purposes of the Commission's task, is it immaterial to ask if the Constitution of 1887, which made all of this possible, also contributed significantly to the fall of the monarchy in 1893? Or, is it irrelevant to ask that if Queen Liliuokalani had the powers her predecessor had before the Constitution of 1887, would she have been able to put down the Revolution of 1893? I think not.

C. The Report ignores the role of the U.S. Government in encouraging the annexationists in 1892.

Early in 1892, the Annexationist Club was formed to counteract what its members believed was a likely effort by Queen Liliuokalani to move against the Constitution of 1887. Formation of the Club was initiated by Lorrin Thurston, and included many of the American expatriates who framed the Constitution of 1887.

In the event of an attempt by Queen Liliuokalani to revise the Constitution, the Annexationist Club planned to seek annexation to the United States. Their membership and plan were kept secret because what they proposed was treason.[4] Significantly, I believe, Lorrin Thurston believed that foreigners with a financial investment in the Kingdom and permanent settlers favored annexation,

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[3] Daws, Gavan. Shoal of Time, New York, The MacMillan Co., 1968, p. 253.

[4] Daws, id., p. 266.

while the common natives and the Queen and her faction were opposed.

Inasmuch as the Committee of Safety, which brought about the fall of the monarchy was a direct outgrowth of the Annexationist Club, I believe it is relevant to ask whether the United States Government actively encouraged or otherwise condoned the treasonous plans and objectives of the Annexationist Club. As evidenced by the following excerpt from a history of Hawaii,[5] it seems to me there is a good possibility that question could be answered in the affirmative. Yet the Report not only fails to assess the significance of Lorrin Thurston's Washington meetings in 1892, it fails to mention them.

> "Thurston...visit(ed) Washington... (to) see what the statesmen there thought about taking the Hawaiian Islands...Secretary of State James Blaine was cordial, and Secretary of the Navy Benjamin Tracy passed on to Thurston some encouraging words from President Harrison -- that 'if conditions in Hawaii compel you to act as you have indicated, and you come to Washington with an annexation proposition, you will find an exceedingly sympathetic administration here.'"

If nothing more, the reception Lorrin Thurston received in official Washington did nothing to discourage the annexationists. In light of the role of U.S. Minister Stevens and the U.S. Navy during the fall of the monarchy less than a year later, I do not think it unreasonable to attach even greater significance to that reception.

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[5] Daws, id., p. 266.

D. The Report begs the fundamental question: Was the role of the United States significant or decisive in bringing about the downfall of the monarchy? If it was, then it seems to me that moral case for reparations becomes significantly stronger and perhaps decisive.

The Report concludes that the fall of the monarchy was "primarily the result of a power struggle between supporters of the monarchy...and the monied haole group..." (p. 198). [illegible] that determination fails to address the issue of U.S. involvement and its importance in expediting the success of the revolutionaries.

The authors of Chapter II, Part II attempt to minimise the role of the United States Minister John Stevens and the impact of the landing of troops from the U.S.S. Boston even while simultaneously conceding that Stevens was known publicly to be strongly pro-annexationist,[6] that he was in close communication with members of the Annexationist Club, that he requested troops to protect American property and lives in the absence of any immediate or visible physical danger, and that troops were bivouacked at a location near government buildings in apparent contradiction to their announced mission. Moreover, there can be no doubt that their presence demoralised the Royal Government and convinced its supporters that the United States supported the revolutionaries (p. 194).

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[6] Kuykendall, Ralph S., Hawaiian Kingdom, Vols. I-III, Honolulu, University of Hawaii Press, 1967. Hereafter referred to as Kuykendall. Kuykendall states that there can be no doubt that Stevens was dedicated to annexation and overeager to recognize the provisional government. P. 629.

On page 177, the authors further attempt to minimize the impact of the troops by comparing their number - 175 men plus artillery and 75 armed revolutionaries - to the Hawaiian army, whose membership was given as 500. The overt purpose of this comparison is obviously to downplay the importance of the landing.

Deliberately omitted is the fact that the Hawaiian army was scattered throughout the Kingdom and was not concentrated in Honolulu. Nor was it capable of opposing well-trained foreign forces. Furthermore, the authors' estimate of the size of the Hawaiian army is at odds with Kuykendall, who states that it consisted of only 272 men.[7] The well-armed and trained American troops would thus have been more than adequate to overcome their potential opposition.

A review of the history of the U.S. strategic interest in the Hawaiian Islands, the interaction between the annexationists and American officials, and the occurrences immediately preceding and during the revolution leads one to less ambiguous and qualified conclusions than were reached by the authors.

First, with respect to the activities of Stevens, it was known that he was strongly pro-annexationist. Second, he had

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[7] Kuykendall, *id.*, p. 605.

secret meetings with members of the Committee of Safety, which was composed of members of the old Annexationist Club. The Report fails to mention that Stevens may have done more than indicate to the Committee members a willingness to recognize a provisional government. He also apparently offered his opinion of the Queen as a revolutionary who had committed an illegal act.[8] Such gratuitous language was inflammatory and was obviously calculated to encourage the revolutionaries.

Moreover, the Report conveniently omits the fact that the Committee members also apparently sought the support of Captain Wiltse, who, one historian reports, seemed to approve of the Committee's plans.[9] On Monday, January 16, 1893, the Committee sent a letter to Stevens requesting the protection of American forces. Thus, a carefully scripted pretext for American intervention was set into motion with the full knowledge and cooperation of the commander of the U.S.S. *Boston* and the American Minister.

No historian, however biased, has ever been able to discern a threat to the lives or property of foreigners from Queen Liliuokalani's government except to the extent that they would not enjoy certain privileges if her proposed new constitution had been enacted. The Report further notes that no retaliation against the members of the Committee was taken even though its activities

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[8] Kuykendall, *id.*, p. 588

[9] Kuykendall, *id.*, p. 588

were known as early as Sunday, January 15th (p. 192), and the reality of the "threat" must be seriously questioned. The threat of violence was fabricated and served as a convenient excuse to solicit armed American support. The entire revolution was accomplished without a single life being lost and with only a few rounds of ammunition expended.

I believe that the historical record lends credence to the belief that the American involvement was significant, substantive, and perhaps decisive. The political turmoil created by the attempt of monarchists to reassert their sovereignty relative to foreigners and local monied "haoles" was not marked by violence. Nevertheless, there developed a coincidence of interests by the revolutionaries and pro-annexationist American officials to use the opportunity to land American troops, thereby neutralizing any effective response to the revolution by the Royal Government. One can only conclude that the United States, as represented by its agents in Honolulu, was an active participant in and a political beneficiary of the revolution which eventually resulted in Hawaii's annexation as a territory in 1898.

E. The Report's characterization of the events during the period January 14-17, 1893, culminating in the fall of the monarchy and recognition of the Provisional Government, rests on a selective use of facts regarding the activities of the annexationists, American Minister Stevens, the United States Navy and Marines, and Queen Liliuokalani.

As I have pointed out above, the facts about American involvement are very disquieting, for it constituted more than protection of American lives and property and more than passive responses.

In 1891, Queen Liliuokalani succeeded to the throne, determined to stem the erosion of the monarchy's authority. Beginning in early 1892, she began preparing to amend the Constitution to more closely resemble the Constitution of 1864. It was her attempt to promulgate a new constitution in January, 1893, that precipitated the formation of the Committee of Safety, meetings between the revolutionaries and Stevens, and the revolution itself.

There was no danger to any lives or property and hence no justification for the landing of the forces from the U.S.S. *Boston*. The Report does not and cannot make a case for the landing and avoids this issue completely. The differences between the merchants and plantation owners and the monarchists was a domestic conflict into which the United States had no reason or right to interfere except to protect American lives.

The manner of deployment of American troops was also of questionable legality, for it led to the natural conclusion that they were landed for reasons other than to protect American lives and property. As all historical accounts note, much of the company was bivouacked between the Palace and Government Building, away from the concentration of American property.

There were many factors which contributed to the revolution, and the economic issue was but one of them. In addition to the strategic value of Hawaii, which was expounded by Alfred Thayer Mahan, the report does not mention one of the most sensitive elements - the growing racial antagonisms.[10] This factor is important because it is consistent with the development of the theory of "social darwinism" which had gained intellectual respectability in much of the Western world. This was the dark side of the revolution.

The history of the Hawaiian Republic is relegated to a few sentences, but it is worth examining in greater detail because it casts doubts on the noble sentiments expressed by the revolutionaries. In practice, the ensuing Republic, ruled by an oligarchy and operating under a restricted franchise, proved to be less democratic and less free than its American model.

Finally, I do not believe that Part II of Chapter II adequately relates the significance of this history to the "concerns" of Native Hawaiians as mandated in P.L. 96-565. An accurate historical account is important not only for its legal implications but also because it helps to explain why so many Hawaiians and part-Hawaiians became alienated from politics and life in the post-monarchy period. The destruction of the monarchy, failed restoration attempts, and the curtailment of the franchise

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10/ Kuykendall, *id.*, p. 634; Daws, Gavan, *id.*, p. 277.

effectively terminated the right of the Hawaiian majority to control the fate of their land. It is only against this background of political disenfranchisement that the statistics recounted in Part I can be understood.

F. The role played by the United States, through its Minister John Stevens and its armed forces aboard the U.S.S. *Boston*, is of paramount importance since a violation of accepted international legal behavior would make the United States accountable for remedying the actions which violated the law. This was, in fact, the finding of the investigation conducted by Commissioner James Blount and communicated by President Cleveland to the Congress on December 18, 1893, (noted on p. 198 of the Report).

1) Acts of a State's agents and organs. The American representative to the Kingdom of Hawaii was Minister John Stevens. International law deems acts of state officials and organs as "acts of the State" for purposes of determining the State's international responsibility.[11] Thus, Stevens' actions, which were conducted in behalf of the United States, even if not specifically directed by the Department of State or the President, constituted an act of State and thereby laid international responsibility for them on the Government of the United States.

11/ Yearbook of the International Law Commission, Volume II, Articles 5 and 10 (1973 and 1975).

Among the activities of the *Boston* troops and Stevens on January 16th and 17th were those which clearly could be construed as representing the authority of the United States Government. The events included the following: meetings between Stevens and the Committee of Safety; landing of U.S. troops on January 16, 1893, and their deployment in Honolulu; and recognition of the provisional government by Stevens prior to its gaining control over all military strongholds and the abdication of the Queen.

As the Report acknowledges, Stevens was known to have strong annexationist views (p. 192). Furthermore, the landing of the troops naturally provided psychological support to the revolutionaries (p. 194) and probably had the effect of intimidating the Royal Government (pp. 194-195).

2) State practice of recognition. In the nineteenth century, the United States generally followed the practice of extending recognition to the person or persons in control of the government.[12] This apparently was also the understanding of the Department of State, whose international law *Digest*, claims

> "(N)or was any public recognition accorded to the provisional government by the United States minister until the Queen had abdicated and the provisional government had secured 'effective possession of the government buildings, the archives, the treasury, the barracks, the police station, and all potential machinery of the government.'"[13]

12/ T. Chen, *The International Law of Recognition*, pp. 103-138, (1951).

13/ J.B. Moore, *Digest of International Law* 498 (1906).

In fact, this account was incorrect, for recognition by Stevens *preceded* the surrender of the police station and the abdication of the Queen.

Therefore, by any measure, the American recognition of the new provisional government was premature and unjustified by events or under international law as then practiced. Stevens, as the representative of the United States, had other legal alternatives available besides *de facto* recognition, including recognition of "belligerency" and "insurgency", both of which maintain a State's position of neutrality.[14] That he did not do so at a period when facts were unclear and the course of events unsettled is indicative of his wanton disregard for international legal practice.

3) The duty of a State to avoid intervention in the domestic affairs of another State. It is a firmly established principle in international law that a State may not interfere in the domestic affairs of another sovereign State.[15]

14/ American Law Institute, *Restatement* (Second) of the *Foreign Relations Law of the United States*, 94 (1965), Comment e.

15/ See, e.g., Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations, General Assembly Resolution 2625, October 24, 1970, U.N. *Monthly Chronicle*, 99, 152-183.

I have noted that under international law Stevens was an agent of the United States Government, that recognition of the provisional government was extended in a manner contrary to contemporary American practice and inconsistent with the prevailing political situation, and that such intervention in the domestic affairs of another country was contrary to international law. The legal analysis is addressed in Part III.

PART III - LEGAL ANALYSIS

The Report's finding that there is no basis in existing law for native Hawaiians to claim compensation from the United States for loss of land or sovereignty is irrelevant. Moreover, even if the question were in point, given its institutional bias, the Department of Justice was hardly the appropriate party to perform the legal analysis on the question of the Government's liability for such claims. In any event, the Report's analysis of existing law is faulty.

1) It seems to me that the task of the Commission was to ascertain whether a legislative remedy for native Hawaiian claims was appropriate under the circumstances, not to try to force-fit these claims within an existing legal framework. It would appear self-evident that, if there already existed a forum and procedure for determination of these claims, they would have been disposed of long ago. In this respect, it appears that the Commission's focus was wide of the mark. Likewise, the claims histories of other aboriginal groups, while relevant, should not have fixed the parameters of the Commission's inquiry. A broader and less constrained perspective would have afforded the Commission a greater opportunity to achieve its basic mandate, namely, to ascertain whether the claims of native Hawaiians had any moral legitimacy, and, if so, what remedy should be fashioned.

On the contrary, the principal exercise of the preparers of the Report has been to examine the validity and viability of the claims of native Hawaiians under the statutory and decisional law applicable to the claims of American Indian tribes. This approach is both inappropriate and illogical. The Indian Claims Commission Act was adopted for the purpose of resolving the historic claims of American Indian tribes; the determination of claims brought under that Act considered, took into account and was influenced by the American Indian cultural, historical and political experience.

The body of law created in the determination of American Indian tribal claims was reflective of the American Indian experience. It was not necessarily reflective of the cultural and historic experience of other groups, such as the native Hawaiians, and, similarly, it could not be expected that a body of law designed to provide a forum for determination of American Indian tribal claims would be adequate to resolve the claims of a completely different ethnic group.

There can be no question as to the substantial cultural, political and historical differences between American Indian tribes generally and the

native Hawaiians. For one thing, the native Hawaiians were much further along in political development, having, at the critical times covered by the Report, all the rudiments of modern political society, e.g., a written constitution, elected representatives, codes of laws, courts, etc. Unlike American Indian tribes, the Kingdom of Hawaii was recognized as an independent nation by most of the leading Western nations. The Supreme Court has observed that, before annexation, "Hawaii had existed independent from the rest of the world and sovereign as far back as history and local tradition reaches." United States v. Fullard-Leo, 331 U.S. 256, 265 (1948). In that same case, the Court also significantly observed: "We are not dealing with an explorer's claim of title to land of a savage tribe or that of a discoverer of a hitherto unknown islet." Id. at 268.

These differences alone are so substantial, indeed fundamental, that it should have been immediately obvious that the legislative solution and the decisional principles adopted for American Indian tribal claims could not be adopted in toto, without modification, for dealing with the claims of native Hawaiians. These precedents could certainly have served as a legitimate starting point, but they should not have limited the scope of Commission consideration.

The preparers of the Report devoted much of their energy and effort to demonstrating that the claims of the native Hawaiians did not meet all of prerequisites of the "aboriginal title" and "recognized title" concepts developed for determination of American Indian claims. Had they focused more on the rationale underlying these concepts, rather than technical niceties, they would have perceived that these concepts reflected a common-sense approach to resolving the particular claims under consideration and that the decisional concepts were in large part molded and influenced by the historic and cultural experience of the claimants. There is no common-law concept or doctrine of "aboriginal title". Instead, this concept was specifically developed to deal with the unique claims of American Indian tribes.

There is no compelling reason in law, logic or policy to require that the claims of the native Hawaiians, a wholly different group with wholly different historic and cultural experiences, be

either evaluated or adjudged under decisional principles framed for and tailored to Indian tribal claims. In several instances in the Report, it is concluded that the claims of native Hawaiians, for some reason or other, could not be brought under the Indian Claims Commission Act.[16] The significance of the Indian Claims Commission Act was an historical precedent; it represented a humane and compassionate act designed to provide some remedy -- albeit imperfect -- for historical wrongs committed or permitted by the central government against a weak and dependent people. Viewed in this perspective (and not as representing the only available procedure), the history of the litigation of American Indian claims can provide some real guidance to the framing of an appropriate remedy for the claims of native Hawaiians.

2) The Commission was ill-advised to have the Department of Justice perform the "legal analysis" for the claims liability section. By virtue of past experience (if not institutional bias), the Department of Justice is

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16/ For example, it is asserted at pp. 233, 236 and 238 that the claims of the native Hawaiians cannot be considered under that Act because they were not filed before the claims cut-off of 1951 - hardly an astute or helpful observation.

not predisposed to concluding affirmatively on the existence of liability on the part of the federal government or to discussing the most likely rationales for appending liability on the government. Again, without seeking to cast any aspersions on the integrity of the Department of Justice personnel, I feel that the Commission should have entrusted this sensitive task to more independent (and perhaps more imaginative) source. Asking the Department of Justice to prepare this analysis is akin to requesting the legal department of American Telephone and Telegraph to provide an objective analysis of the merits of telecommunications divestiture legislation.

3) The Report's analysis of existing law in support of its finding that there is no basis for Government liability is faulty.

Throughout the Report, it is maintained that there can be no liability unless the United States itself acted to cause the extinguishment of aboriginal title, i.e., if aboriginal title was extinguished by the Provisional Government, the United States has no liability. This assertion ignores several cases decided under the Indian

Claims Commission Act which have held the United States liable where it condoned and ratified acts of others resulting in a taking of Indian lands. For example, in United States v. Fort Sill Apache Tribe, 533 F.2d [illegible] (Ct. Cl. 1976), the court held that the United States can be liable for the acts of third parties if those acts "can be imputed to the United States and are deemed in contemplation of law to be the acts of the United States." Id. at 534. The court noted that it had been held that acts would be imputed to the United States, thus constituting a constitutional taking, when (a) the United States military protected the third-party trespasses, and (b) United States law recognized or retroactively validated the titles of the trespassers. Ibid.; See also Temoak Band of Western Shoshone Indians v. United States, 593 F.2d 994 (Ct. Cl.), cert. denied, 444 U.S. 973 (1979); United States v. Northern Paiute Nation, 393 F.2d 786 (Ct. Cl. 1968).

In United States v. Northern Paiute Nation, 490 F.2d 954 (Ct. Cl. 1974), the court explained that the retroactive validation of the title of third-party trespassers by the United States had the same legal effect as if it had formally authorized the trespass:

> [F]or purposes of the instant claims, the miners' acts cannot now be regarded as torts of third parties. By subsequent ratification and adoption they are made acts of the United States . . . . [W]hen the United States adopts and ratifies a wrong against an Indian tribe, even though it was unauthorized and tortious originally, the ratification makes it an act of the United States . . . . [Id. at 950.]

The historical record provides more than ample factual support for a finding that the United States condoned, if not actively participated in the rebellion of the American expatriate group which usurped the Kingdom of Hawaii. There can be no question that, subsequent to the revolt, the United States, through recognition of the Provisional Government and assumption of a de facto "protectorate" over Hawaii (Report, pp. 196-97), can be said to have ratified the acts of the revolutionaries and adopted them as its own.[17]

The preparers of the Report also make much of the fact that significant amounts of Crown lands and Government lands were leased to foreigners,

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[17] Indeed, it could be argued that the United States exercised some measure of control over the Hawaiian Islands long before annexation. In the controversial Morgan Report (S. Rep. No. 227, 53d Cong., 2d Sess. (1894)), it was acknowledged that "Hawaii has been all the time under a virtual suzerainty of the United States, which is, by an apt and familiar definition, a paramount authority, not in any actual sense an sovereignty, but a de facto supremacy over the country." Id. at XXI.

contending that somehow this fact reflects a defeasance of the title of native Hawaiians or a defect therein. This view is incorrect for several reasons. First, a lessee's right is dependent on and not adverse to that of the lessor. Indeed, the lease itself is a formal acknowledgement by the lessee of the superior title of the lessor. Given this circumstance, it is difficult to understand how the leasing of Crown and Government lands can defeat the claims of native Hawaiians. If, as I shall note below, these lands were held and administered in trust for all native Hawaiians, the leasing thereof was nothing more than an incident of ownership, an ownership which was acknowledged by the lessees.

Secondly, under the Indian Claims Commission Act, there is an analogous doctrine sanctioning the permissive use of aboriginal lands by another group, without loss of aboriginal title. This concept is known as the doctrine of permissive use; it provides that where one dominant tribe permits another tribe to use its lands with the express understanding that the user is a guest, such permissive use does not affect the dominant tribe's aboriginal title. See Caddo Tribe v.

United States, 35 Ind. Cl. Com. 321, 341-42 (1975). Thus, there exists even under claims law a precedent for the leasing of Crown and Government lands to foreigners.

Based upon the foregoing, it seems clear that the reliance on leases to foreigners as constituting a defect in the title claims of native Hawaiians is without merit, and, to the extent that the conclusions of the Report are based thereon, they are incorrect.

While reference to the experience of American Indian tribes and Alaskan natives is helpful to an understanding of the complexities of aboriginal claims, I believe it would also have been helpful for the preparers of the Report to have considered, if only tangentially, the historical treatment of land titles conferred by foreign governments to lands subsequently annexed by or ceded to the United States. In that regard, it appears to have been the uniform rule that the United States would accept the validity of foreign land grants. The Supreme Court has observed that this is a basic tenet of the law of civilized nations:

> It may not be unworthy of remark, that it is very unusual, even in cases of conquest, for the conqueror to do more than displace the sovereign and assume dominion over the country. The modern usage of nations, which has become law, would be violated; that sense of justice and of right which is acknowledged and felt by the whole civilized world would be

> outraged if private property should be generally confiscated and private rights annulled . . . . A cession of territory is never understood to be a cession of the property belonging to its inhabitants. The king ceded that only which belonged to him . . . . The cession of a territory by its name from one sovereign to another, conveying the compound idea of surrendering at the same time the lands and the people who inhabit them would be necessarily understood to pass the sovereignty only, and not to interfere with private property. [United States v. Percheman, 32 U.S. (7 Pet.) 51, 86-87 (1833).]

The communal rights of native Hawaiians granted them by the Constitution of the Kingdom of Hawaii and subsequent legislation are of no less dignity than the Spanish land grants recognized in the Percheman case or the many other foreign grants which the United States has recognized in ceded or annexed territories. Concomitantly, they are no more susceptible to divestiture without compensation.

It seems to me that the best claim of the native Hawaiians is to the Crown and Government lands which were ceded to the United States upon annexation. Without getting into all the complexities of the Hawaiian land tenure system, it seems clear that, prior to the arrival of Westerners, the system was largely feudal in nature, with "title" flowing from the King and his chiefs. Written confirmation of the rights of native Hawaiians in lands came with the Constitution of 1840 where it was stated in effect that the land belonged to the chiefs and people in common, with the King acting as a trustee.[18]

It has been observed that "after the constitution of 1840, holdings of the king, chiefs and commoners were intertwined and undivided".[19] The commonality of interests was confirmed in the Great Mahele of 1848 in which the King set aside "Government Lands" of some 1.5 million acres "forever to the chiefs and people of my kingdom".

A sound argument can be made that the native Hawaiians retained a communal interest in the Government lands and the Crown lands[20] and that divestiture of their rights thereto through annexation and preceding acts gave rise to a claim against the United States for which they should be provided compensation.

18/ A Congressional Research Service study concluded that this provision constituted "the basis of Hawaii's modern land system." See Hearings Before the Senate Commerce Committee on Interior and Insular Affairs on S.J. Res. 155, 94th Cong., 2d Sess. 287 (1976).

19/ Levy, Native Hawaiian Land Rights, 63 Cal. L. Rev. 848, 853 (1975).

20/ In Liliuokalani v. United States, 45 Ct. Cl., 418 (1910), the court held that the Crown lands were not the private property of the sovereign, but rather went with the office. Thus, when the office ceased to exist, the Crown lands became as other public lands (e.g., Government lands) and became part of the public domain.

15

RELIGION SECTION OF NATIVE HAWAIIANS STUDY COMMISSION REPORT
Rubellite K. Johnson

DRAFT

NOTE: The text of Professor Johnson's paper is not included in this Appendix. It is reproduced, in its entirety, in the chapter of this Final Report, entitled, "Native Hawaiian Religion."

195-14

*(Explanation: this is an excerpt from an interpretive study of the Hawaiian creation chant, Kumulipo, that deals with Hawaiian ideas of male/female dualism firstly, and secondly, with world traditions of dualism in philosophy and language. The most important passages are bracketed).

THE THEME OF DUALISM

As the abrasive movement between the worlds of sky and earth proceed out of a deep current of darkness, motion is perceived as a force causing the earth to bear (wela), i.e., to be organically productive. The earth as land or soil (honua) is figuratively analogous to the female womb (honua) from which life's forms will be born. The source (kumu) of organic life on earth is to be found in the slime (walewale) or mud accumulating fundamentally (ho'okumu honua ia) in the fluid depths below.

The autumnal rise of the Pleiades (Makali'i), or the season (ke au o Makali'i) during which the Pleiades will course through the sky from the eastern horizon to the zenith, signals the quarter of the year's winter (ho'oilo) when growth renews from decay (ilo, 'worm of decay'; ho'oilo, 'to cause germination'; ilo, 'to sprout, to germinate, as in the rainy season').

When the sky is thus turning and the earth heating, the generative forces of Kumulipo, the first male, and Pō'ele, the first female, appear in the cold and silent depths of the ocean. The emphasis in both names is on the darkness of colors associated with night (Pō). Lipo is a darkness of both air and water. Kumu-lipo, 'Source-Darkness', is identified as masculine, and Pō'ele, 'Night-Blackness', as feminine. These abstractions of darkness associated with empty space and water depth are components of fertility analogous to male-female primal parents, i.e., Wakea (Sky-Father) and Papa (Earth-Mother). They resist personification with human attributes, remaining abstract as color density perceived by the human eye sensitized to the reduction of light at night.

While lipo and pō'ele are darkness, only the qualifier, 'ele, 'black', is a true color. Pō as the opposite of Ao, 'daylight', defines the time when sunlight is absent. Lipo as 'darkness' is not confined to night; it is the darkness or gloom of the forest where sunlight fails to penetrate during the day. Lipo is the appearance of ocean depth through which sunlight dimly filters, allowing the eye to distinguish shapes and outlines of objects, but not true color. In pō'ele, 'black night', visibility is reduced but possible, whereas in pō-panopano, 'jet-black' night', visibility is not possible; darkness is absolute and total, and the eye sees as though blind.

The sensation of coldness and wetness in the currents flowing around the ocean reefs and river mouths through the muddy slime is introduced where living organisms are born of salt water and soft earth. Life began here, in the material fundament, kumu, 'source' or 'foundation'. In the slime, walewale, where the river mud and sand form into the sediment (ho'okumu honua ia) life originated. On another level of interpretation, wale is the fluid of the womb in which the fetus floats and which will cushion the delivery of the human child, easing its entry into the world.

[On earth, however, as in the cosmos, the universe achieves a semblance of order in timed generation. The refrain of generation (pu'ana) epitomizes the opposition of male to female; as in the sky or cosmos, so in the earth:

195-15

Kāne iā Wai'ololī, 'o ka wahine iā Wai'ololā
Male for the narrow waters, female for the broad waters

The refrain is a theme parallel to the phrase in the prologue to time:

Hānau Kumulipo i ka pō, he kāne
Hānau Pō'ele i ka pō, he wahine

Born was Kumulipo in the night, a male
Born was Pō'ele in the night, a female

The Kumulipo asserts that the sexual role of male and female reproduction which is absolutely essential to human birth is the norm by which to posit what must be true for all non-human, organic life. Male-female dualism became the means by which the universe was systematically classified as male-positive/female-negative:

male	female
light	darkness
day	night
sun	moon
east	west
north	south
rising	setting
wet	dry
sea	land
fluid	solid
ethereal	solid
sky	earth

The dichotomous style of balanced opposition of the opening chant of the Kumulipo is a brilliant reduction of the theory and metaphysics of dualism within a compressed poetic context. In philosophically reducing all organic and abstract form to dualistic categorization and opposition, however, the ancients were inevitably to grant greater respect to the masculine component of the universe and human life and to diminish the importance of the feminine.

Male-female dualism ultimately realized a most forbidding social aspect for both men and women in the 'ai kapu, or eating taboo. The reason for the law is explained by the requirement that men perform their sacred rituals to the god Lono, god of agriculture, in their own eating house (mua). In the mua was kept the Ipu-o-Lono gourd image representing the god himself. After offerings placed in the gourd were consecrated by prayer, the men ate ceremoniously from the gourd before consuming their meal. Women, who were considered unclean during the menstrual period, were never permitted in or near the premises where the gods and men partook of this sacred 'aha'aina, or sacrifice to Lono.]

This god, the Ipu-o-Lono water gourd sacred to the Lono worship, is the dominant symbol of the closing epilogue of chant one in the Kumulipo:

'O ke kāne huawai, Akua kēnā
'O kalina a ka wai i ho'oulu ai

The male gourd of water, that is the God
From whose flow the vines are made vigorous

Phallic symbolism is suggested in the gourd image which contained only in a symbolic sense, the "wai ola a Kāne" or the "living waters of Kāne." Kāne was the god of procreation while Lono was the god of natural fertility. These overlapping functions between Kāne and Lono, as were the forces of lightning and thunder in the rainstorms of winter, were symbolized by the joint association of both deities in the gourd, which is the god referred to in the refrain:

He pō uhe'e i ka wawā
He nuku, he wai ka 'ai a ka lā'au
'O ke Akua ke komo, 'a'oe komo kanaka

'O kāne iā Wai'ololī
'O ka wahine iā Wai'ololā

It is a night gliding through the passage
Of an opening; a stream of water is the food of plants
It is the god who enters; not as a human does he enter

Male for the narrow waters
Female for the broad waters

The gourd of masculine wai (water) was symbolic of male virility, an aspect of mana (supernatural power) given by the gods to men. The gourd as an open calabash with a lid is a female symbol. Joined to the earth the living gourd plant is symbolic also of the placental cord or parent stalk from which the race has branched out, alluded to in the epilogue:

'O kalina a ka wai i ho'oulu ai
'O ka huli ho'okawowo honua

From whose flow the vines are made vigorous,
The plant top sprouts from the earth made flourishing.

Water that flowed from the gourd in narrow confines, moving and rushing, is the wai 'ololi (narrow waters) of the refrain:

> Kāne iā wai 'ololi, 'o ka wahine iā wai 'olola
>
> Male for the narrow waters, female for the broad waters

Wai 'olola 'broad waters' was water that flowed out of ponds, lakes, and reservoirs. The energy of wai 'olola is seen as potential rather than kinetic. The antitheses of kāne/wahine and 'ololi/'olola are synthesized in wai 'olo, the gurgling sound of water jumping from the gourd or trickling and tumbling along over river boulders. The relationship of the high, tense front vowel in /li/ to the open, relaxed vowel of /la/ in the opposition of 'ololi to 'olola to balance the male/female antithesis in sounds to be uttered by the human voice is synthesized by the prefix 'olo- as the sound of water in wai 'olo. 'Olo is an exquisite pun on the name of Lono-i-ka-makahiki, invoking the association of Lono's name with sound. Lono was formally addressed in ritual prayers as 'Ono or 'Olono with the prefix /'O/, the subject marker before personal names. 'Olo means 'to resound' or to sound for a long time. A gourd container, 'olo, was used as a receptacle for water or for kava. These objects were sacred to the god Kāne, for whom water and kava were symbols.

The magnetism of the Kumulipo for those who enjoy literature is to be found in such rich and subtle analogies to which effort must be made to extract the symbolic associations of shape, sound, or color on several layers of subtlety, so deep is the layering of figurative meanings to words or roots of words used as metaphors.

[Martha Beckwith, a translator of the Kumulipo, in another scholarly study of Hawaiian poetics based on analysis and translation of the romance of Lā'ie-i-ka-wai, called attention to the aesthetic requirement of antithesis in poetic style. She classified into a table a number of standard paired opposites typifying dualistic categories, explaining that "these are paired in repeated iteration as a stylistic element in the composition of chants . . . one pair lies implicit whenever its opposite is used in reference to the speaker."[41]

Female	Male
night	*day*
land	*water*
setting (of sun)	*rising (of sun)*
large	*small*
soft (faint)	*hard*
prostrate (position)	*upright*
downward	*upward*
away (from speaker)	*toward*

The following chant is an example of antithesis in poetic style, reflecting dualism:

> *Awake*, o rain, o sun, o night
> O mists creeping inland
> O mists creeping seaward
> O masculine sea, feminine sea, sand sea
> Delirious sea, surrounding sea of Ku
> The islands are surrounded by the sea
> The frothy sea of small billows
> The sea of low-lying billows
> The sea of upreaching billows
> That come hither from Kahiki

To Beckwith's list of opposites may be added the following pairs which are the most persistent examples of dualism occurring in Hawaiian poetry, art, and religion:

Female	Male
earth	*sky*
moon	*sun*
darkness	*light*
night	*day*
left	*right*
left-handed	*right-handed*
awkwardness	*dexterity*
lesser understanding	*intelligence*
weakness	*strength*
disease	*health*
death	*life*
absence of mana	*mana (skill, power)*
potential energy	*kinetic energy*
passive	*active*
broad	*narrow*
flat rocks	*pointed rocks*
ocean	*land*
cold	*hot*
wet	*dry*
down	*up*
south	*north*
west	*east*
earth	*sky*

]

[DUALISM AS A UNIVERSAL THEME

The Kumulipo is not a unique expression of metaphysical dualism in the literatures or religions of the world. In Chinese Taoism the moon as a female luminary is contrasted with the sun as "the concrete essence of the female or negative principle in nature . . . the male or positive principle is embodied by the sun . . . corresponding to that which is solid or complete . . . hence the symbol of the sovereign upon earth . . .".[42] Dualism is, perhaps, best exemplified by the Chinese categories of *Yin* and *Yang*, "the negative and positive principles of universal life . . . pictorially represented by the symbol . . . of an egg showing the yolk and the white strongly differentiated, the dark and light colors distinguishing the two principles . . . Yang signifies heaven, sun, light, vigor, male, penetration, the monad . . . symbolized by the dragon . . . azure color and oddness in number . . . raised land forms (mountains) are yang . . . Similarly yin stands for earth . . . moon, darkness, quiescence, female, absorption, the duad . . . symbolized by the tiger . . . orange color and even numbers . . .".[43]

As a philosophy of the nature of being, dualism is not confined to the orient. It is found in broad distribution throughout Old World oriental and occidental religions and has influenced the style of sacred literary expression, as exemplified by Biblical statements: "*Male* and *Female* created he them";[44] "Come, let us reason together," saith the Lord, "though your sins be as *scarlet*, they shall be *as white as snow*".[45] Dualism has influenced the symbolic development of entire systems of religious thought, as in India. In Hinduism "transitoriness is confronted with constancy, and the creation with destruction".[46] Shiva-Mahādeva is a creator/destroyer synthesized in a symbolic dual role. The opposition of creation to destruction as a rhythmic process of the natural universe has been reduced to general categories which are the "combination of all male and female forces":[47]

Female	Male
negative	*positive*
destruction	*generation*
receptive	*active*

The dualistic attitude survives and persists in the grammatical gender of Indo-European languages, as in the categories of male/female or neuter nouns and male/female definite article with agreement of adjective endings:

Male

- el lapiz—'the pencil'
- pequeño—'small'
- el niño—'the boy'
- los niños—'the boys'
- alguno—'some'
- algunos niños pequeños, 'some small boys'
- der Himmel—'the heaven'
- der Mond—'the moon'

Female

- la pluma—'the pen'
- pequeña—'small'
- la niña—'the girl'
- las niñas—'the girls'
- alguna—'some'
- algunas niñas pequeñas, 'some small girls'
- die Erde—'the earth'
- die Sonne—'the sun'

Dualism as a function of language or as a philosophy of being may be explained as a tendency toward archetypal codification of antitheses arising from a psychological need of the human mind to classify, through the convenient means of contrasting oppositions, those sets of objects, shapes, colors, and other abstract or concrete values which are either same or different. The polemics of early Greek philosophy illustrates a view of Anaxagoras that "'perception is produced by opposites, *for like things cannot be affected by like*'." Man is able to comprehend what something is by what is not like it, or by what it is not. It is through the interest of the Greek philosophers in questions of logic and in the problems of definition that the nature of dualistic thinking is examined:

"The Ionians . . . were deeply impressed by the transitoriness of things. There is . . . a fundamental pessimism in their outlook . . . the cycle of growth and decay is a far more striking phenomenon in Aegean lands than in the North and takes still more clearly the form of *a war of opposites, hot and cold, wet and dry*. It is, accordingly, from that point of view the early cosmologists regard the world. *The opposition of day and night, summer and winter*, with their suggestive parallelism in *sleep and waking, birth and death*, are the outstanding features of the world as they saw it . . . Heraclitus of Ephesus speaks of the '*upward and downward path.' There are two halves of everything being 'drawn in opposite directions;' this 'opposite tension keeps things together.*' . . . Parmenides of Elea talks of the '*warm and cold' bonds encircling one another in the celestial space* . . . Empedocles of Akragas speaks of the '*hot and cold, moist and dry; the hot is fire, the cold is earth, the moist is water, and the dry is the air*. There are thus four 'roots;' fire, earth, water, air, and four stages of creation."[48]

Anaxagoras posited that the formation of a world starts with a rotatory motion which "'Nous imparts to a portion of the mixed mass in which 'all things are together' . . . its rapidity produced a separation of *the rare and the dense, the cold and the hot, the dark and the light, the moist and the dry* . . . two great masses . . . one consisting mostly of the *rare, hot, light, and dry*, called the 'aether;' the other, in which the opposite qualities predominate, called '*Air*' . . . aether or Fire took the outside while air occupied the centre. The next stage is the separation of the air into *clouds, water, earth, and stones* . . . torn from the earth by the rapidity of its rotation and made red-hot by the speed of their own motion . . ."[49]

The contribution of the Pythagoreans to early Greek philosophy and their dualism of numbers was explored and described by the great philosopher, Aristotle:

"... *Now* to seek this is to seek another principle, namely, as we might say, the *source which begins motion* . . . Now those who were the very first to take up this kind of inquiry and to say that the underlying subject is one were not dissatisfied with themselves; but some of those who say that the underlying subject is one, as if defeated by this inquiry say that the *One* and the whole of nature is *immovable* not only with respect to *generation and destruction* (for this was an old belief and agreed upon by all) but also with respect to every other change, and this belief is peculiar to them. Of those who said that this universe is one, then none happened to discern also a cause of this kind, except perhaps Parmenides, and to this extent, that he posits *not only one cause but in the same sense two causes*. But those who posit *more than one*, such as the *Hot* and the *Cold*, or *Fire* and *Earth*, are more able to state the second cause; for they regard *Fire* as having a nature which moves things, but *Water* and *Earth* as having a contrary nature . . ."

"... As we have said, then, the thinkers up to the time of Empedocles appear to have touched upon two of the causes which we distinguished in the *Physics*, the *material cause* and *the moving cause* . . . Empedocles was the first to speak of the *four* so-called material elements, not using them as four, however, but only as two, *Fire* by itself, and the elements opposed to it (Earth, Air, and Water) as of one nature . . ."

"... Leucippus and his associate Democritus declare that the *Full* and the *Void* are the elements, calling the one 'being' and the other 'non-being' . . . and just as those thinkers, who posit one underlying substance, generate all other things by its attributes, positing the *Rare* and the *Dense* as the principles of all other changing attributes, so these thinkers say that the *differentiae* are the causes of all other *differences* in things. These *differentiae* are three: *Shape, Order, and Position* . . . Contemporaneously with these thinkers, and even before them, the so-called Pythagoreans, who were engaged in the study of mathematical objects, were the first to advance this study, and having been brought up in it, they regarded the principles of mathematical objects as the principles in things

. . . *And* whatever facts in numbers and harmonies could be shown to be consistent with the attributes, the parts, *and the whole arrangement of the heavens, these they collected and fitted into a system*

. . . since ten is considered to be complete and to include every nature in numbers, they said that the bodies which travel in the heavens are also ten; and since the visible bodies are nine, they added the so-called '*Counter-Earth*' as the tenth body . . . the elements of a number are the *Even* and the *Odd*, the Odd being finite and the Even being infinite; the *One* is composed of these (for it is both even and odd); a number comes from the *One*; and as we said, *the whole heaven is numbers* . . . Other members of the same school declare that *the principles are ten, that is, ten pairs arranged in two columns, opposite against opposite*'":

Finite-Infinite
Odd-Even
One-Many
Right-Left
Male-Female
Resting-Moving
Straight-Curved
Light-Darkness
Good-Bad
Square-Rectangular

"...From both of these schools, then we can gather this much, that the principles of things are the contraries, and from the Pythagoreans, we are told how many and which the contraries are".

145- 21

ANTHROPOLOGY: Culture Patterns and Processes
by: A. L. Kroeber

168. CULTURAL FATIGUE: TABOO IN HAWAII

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145- 22

[illegible]

Ku'ilioloa 145-44

HAWAI'I COASTAL ZONE NEWS
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In This Issue:
- Space-age solutions: pg. 2
- Wai'anae heiau history: pg. 2

WAI'ANAE COASTAL HEIAU BEING RESTORED

by Shannon McMonagle, HCZNews

Stabilization and restoration of Ku'ilioloa heiau on the Wai'anae coastline is scheduled to resume this summer as part of a major historic preservation project of the Wai'anae Hawaiian Civic Club.

A preliminary excavation of the heiau, located at the extreme tip of Kane'ilio Point at Poka'i Bay, was completed in June 1979 with $11,000 in state Progressive Neighborhoods Program funds. Student and adult volunteers from the Wai'anae community performed the excavation work under the direction of Bishop Museum archaeologists.

Contrary to reports which claimed that Ku'ilioloa heiau was 95 percent destroyed and of little historic significance, findings from the preliminary excavation confirm that only 45 to 50 percent of the heiau is in ruins, and that the site still contains valuable historic information. The heiau site has been nominated to be included in the National Register of Historic Places.

A classic example of the multi-terraced or "stepped platform" type of Hawaiian temple or religious structure, the Ku'ilioloa heiau has eight remaining terraces (giving the visual effect of a many-tiered wedding cake), with the lowest one measuring about 17.5 meters square. The heiau extends out to about 36 meters in an east-west direction and measures 20 meters at its widest point. According to Bishop Museum archaeologist Tom Riley, a few original rock walls which display fine dry rock masonry techniques remain, but most of them were destroyed during World War II when the U.S. Army built a communications station on the site.

Twenty-seven artifacts dating to prehistoric Hawai'i were culled from the heiau during initial excavations, including fish hooks, stone hammers, coral and sea urchin files, and volcanic glass flake cutting tools, Riley told HCZNews. Hydration rind dating places the volcanic glass flakes roughly between 1667 and 1707, suggesting that the heiau was in use long before the reign of Kamehameha I. Further excavations as part of a youth project of the Progressive Neighborhoods Program uncovered a human burial site within the heiau, with human bones that probably date back to that period.

"The Ku'ilioloa heiau is significant because it gives us our first glimpse into early coastal settlements of the area, with an approximate time frame," said Riley. "Preliminary excavations have not tapped the full potential of the site, and undoubtedly other sites along the Wai'anae coastline are also worthy of study."

Although it is difficult to say exactly what kind of role the heiau played in early times, Solomon Naone, historic preservation committee chairman for the Wai'anae Hawaiian Civic Club, feels that its use was undoubtedly oriented to the sea in one way or another.

"Due to its prominent position on the coastline, the heiau was probably a

(Continued on page 4)

Wai'anae students participate in excavations at the Ku'ilioloa heiau. —Photo courtesy of Wai'anae Hawaiian Civic Club

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145-38 ©

Letters to the Editor

(Continued from page 3)

Leeward chain. The only species found at Ka'ena (Sesbania tomentosa), also grows on Necker and Nihoa islands, but nowhere else. The Ka'ena species is considered rare, but it is not yet officially on the list of endangered plant species.

The Hawai'i Department of Land and Natural Resources (DLNR) Division of State Parks has proposed the establishment of a state park along the Mokule'ia-Ka'ena coastline to "preserve and enhance the area while providing for the recreational needs of the public."

According to a 1977 DLNR environmental impact statement prepared for the proposed park, "the uncontrolled use of four-wheel drive vehicles and motorcycles has destroyed much of the vegetation at Ka'ena Point, and as a result, erosion is a serious problem."

The State presently owns 12 acres of land on the Wai'anae side of Ka'ena Point, which was approved in November, 1978 by the State Board of Land and Natural Resources for inclusion in a natural area reserve. Under Regulation 10 of the Natural Area Reserve System, all vehicular traffic is prohibited in a reserve, except in designated areas.

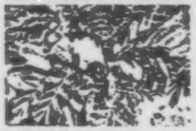
Unfortunately, the Natural Area Reserve Commission and the State DLNR lack funding for signs to mark the reserve's location at Ka'ena and for personnel. Although some efforts are being made to enforce the ban on vehicles, the enforcement division can only make periodic checks of the area.

Thus, although portions of the sand dunes have been declared a natural area reserve, and hearings were held to publicize this decision, because there are no signs at the site, recreational use of the point that may endanger the plants is likely to continue.

Also, without control of about 35 acres of privately-owned land on the Mokule'ia side of the point, where most of the 'ohai is growing, it is difficult to block access, according to DLNR's [illegible], parks and recreation coordinator-manager.

Botanists have reported their concern about the potential danger to the endemic and rare plants at Ka'ena. [illegible] says that if the DLNR is unable to take protective measures within a "reasonable period of time," there may not be anything left to protect. One idea that was being considered would be to lease the undeveloped private land that belongs to the [illegible] Estate. The area could then be fenced off with gates to control and reduce unauthorized access, or fenced off to protect the ecologically sensitive dunes. Another idea was to place large boulders around the plants as a temporary emergency measure to protect the 'ohai.

At present, the DLNR has not begun to negotiate purchase of the privately owned land at Ka'ena. However, DLNR state parks planner [illegible] said that funds are available and that perhaps by this summer the division will be able to initiate action in which purchase of the Ka'ena land would have high priority. When the land is purchased, 10 acres will be nominated to be included in the natural area reserve.



'Ohai (Sesbania tomentosa)
—Ray Tabata photo

Wai'anae Heiau

(Continued from page 1)

commanding temple for several other heiau in the surrounding valleys," Naone said in an interview. "It was in all likelihood interconnected both visually and spiritually with other heiau, each fulfilling different purposes in the overall scheme of ancient Hawaiian society.

"Members of the Wai'anae community are understandably enthusiastic about the heiau restoration and regard it as an important symbol of their heritage which is worthy of preservation," he said.

In addition to the work on the heiau, the Wai'anae Hawaiian Civic Club project plans include establishing a complete Hawaiian maritime research center to be used for educational and recreational purposes. Local Wai'anae youth will be hired to work in conjunction with Bishop Museum personnel. Objectives include:

- stabilization and restoration of Ku'ilioloa heiau;
- reconnaissance surveys of the Wai'anae coastline from Ka'ena point to Kahe point, with special emphasis given to areas identified in legends and oral history interviews;
- development of both a prototype and authentic model of an ancient Hawaiian double-hulled canoe; and
- development of a curriculum to coincide with the UH Sea Grant College education program in the schools, both secondary and elementary.

The project is funded by a special matching preservation grant of $104,[illegible] from the Heritage Conservation and Recreation Service of the U.S. Department of the Interior, to be matched with state funds and expended by May 19[illegible].

The Wai'anae Hawaiian Civic Club, founded in [illegible], is one of the oldest organizations in Wai'anae. Since [illegible], the club has focused much of its efforts on the identification and clearing of heiau sites, as well as on the finding of other significant archaeological sites in Makaha, Wai'anae, Ma'ili, and Nanakuli.

HAWAI'I COASTAL ZONE NEWS
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thnoastronomy of the Eastern Bororo Indians of Mato Grosso, Brazil. By Stephen M. Fabian 283
stronomical Alignments in Medieval Islamic Religious Architecture. By David A. King 303
hu a 'Umi Heiau: A Native Hawaiian Astronomical and Directional Register. By Armando M. da Silva and Rubellite K. Johnson 313
ummary: Archaeoastronomy in the Tropics. By Owen Gingerich 333
he Tropical Zone: Land of Opportunity. By Sharon L. Gibbs 337
rchaeoastronomy, Ethnoastronomy, and the History of Science. By Stephen C. McCluskey 343
ulture Confronts Nature in the Dialectical World of the Tropics. By Billie Jean Isbell 353
dex of Contributors 365

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Introductory Remarks

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More than forty years ago, a specialist on the culture of the Indians of Peru concluded his summary of indigenous cosmological ideas with the statement that they were fragmentary and unsystematic and were not brought into relationship to rituals or everyday life. Today, working in the field with a different set of theoretical assumptions, we are able to see that the "fragmentary" nature of American Indian cosmology is perhaps only an artifact of our incomplete understanding of the principles along which indigenous populations of the Americas organize phenomena perceived in their environment. The example we have used concerning Peruvian Indian cosmology is echoed in works related to the cosmologies and systems of practical knowledge of Indian populations throughout North and South America. In light of this, it is important to be reminded as we begin this conference that our theme reflects a new, and in a sense revolutionary, set of assumptions in the study of American Indian culture. That is, our fundamental concern here is not how closely American Indian epistemology conforms to that of the western world. Nor are we primarily concerned with whether or not American Indian systems of astronomy and cosmology constitute a "science." These are, of course, concerns of some interest, but only in so far as they allow us to define more precisely the boundaries of our own forms of thought and logic. In this conference, we are exploring, in a comparative perspective, the traditions of thought and logic whereby American Indian cultures in the tropics organize cycles and phenomena perceived in their terrestrial and celestial environments. If these systems of knowledge are found to be similar to the systems of those cultures located in northern, temperate, latitudes, then we will learn something of the cognitive unity of mankind. If they prove to be dissimilar, then we will be reminded of the human capacity for change and-

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RELIGION AND CEREMONY

145-90

OBJECTIVE

Develop, advocate and support a greater understanding of traditional Hawaiian religious practices, rights and protocol.

Among the more visible aspects of Hawaiian culture are traditional religious practices, ceremonies, and protocol in both public and private functions. Passage of the American Indian Religious Freedom Act of 1978 tends to affirm the right of Native Hawaiians to freely express and exercise religious tr[illegible]. The dedication, consecration, and purification of sites are some of the more ostensible aspects of ceremonial practices. Traditional religious practices, however, have more personal functions. Such rites-of-passage as birth, name-giving, and funerary occasions are often accompanied by appropriate ceremonies rooted in tradition. As a consequence, traditionally important practices, ceremonies, and protocol need to be recognized and enhanced through proper planning.

POLICY

Provide a comprehensive information service concerning traditional Hawaiian religious practices, ceremonies, and protocol.

- Implementing Action
  Establish a roster of sites having religious significance.
- Implementing Action
  Formulate a guide of Hawaiian purification, sanctification and rite-of-passage ceremonies for public information and use.
- Implementing Action
  Establish an inventory of collected and transcribed oral histories relevant to particular religious sites.

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10. On the most prominent of the stone circles in Arabia, likened to a modern Stonehenge, see W.G. Palgrave, *Narrative of a Year's Journey through Central and Eastern Arabia*, 2 vols. (London: Macmillan, 1865), vol. 1, pp. [illegible] and [illegible] *Arabia* (London: Macmillan, 1922), pp. [illegible] [illegible] New York University.) See further, A.H. [illegible] *Atlal: The Journal of Saudi Arabian Archaeology*, vol. 1 (1977), pp. [illegible] [illegible] *Atlal: The Journal of Saudi Arabian Archaeology*, vol. 1 (1977), pp. [illegible] and P.J. Parr et al., "Preliminary Report on the Second Phase of the Northern Province Survey 1397/1977," *Atlal: The Journal of Saudi Arabian Archaeology*, vol. 2 (1978), pp. [illegible]
11. For a survey of the stone formations in Southern Arabia, see W. [illegible] in *Festschrift Werner Caskel*, ed. E. Graf (Leiden: E.J. Brill, 1968), pp. [illegible] For an introduction to the archaeology of the area, see B. Doe, *Southern Arabia* (London: Thames and Hudson, 1971).
12. On the "Tower of the Winds" in Athens, see D.J. de Solla Price, *Science Since Babylon*, 2nd ed. (New Haven: Yale University Press, 1975), pp. [illegible] and the references there cited.
13. See J. [illegible], "A Contribution to the Problem of the Pre-existence of the Right, based upon Arabic Evidence," translated from the French, in *Right & Left*, ed. R. Needham (Chicago: University of Chicago Press, 1973), pp. [illegible] Although [illegible] assumed that the corners of the Ka'ba are cardinally aligned, and was not familiar with any of the sources used in the present study, he was able to recognize the function of the Ka'ba as a "microcosm of the universe." On the orientation of the Ka'ba see also [illegible] *Early Muslim Architecture*, [illegible] vol. 9 (1972), pp. [illegible] The notion that the pagan Arab Ka'ba was converted into a church with an apse facing Jerusalem is propounded in G. [illegible] pp. [illegible] See also F. [illegible], "The Sacred Direction in Synagogue and Church," *Hebrew Union College Annual*, vol. [illegible] pp. [illegible] [illegible] synagogues and churches facing Jerusalem [illegible] of mosques that show the qibla wall facing Mecca.)
14. On the orientation of the earliest mosques in the Hijaz towards the east, see W. [illegible], "Die Orientierung der ersten mohammedanischen Moscheen," *Der Islam*, vol. [illegible] pp. [illegible]
15. See P.M. [illegible], "Les [illegible] dans l'Arabie Occidentale," *Mélanges de l'Université Saint-Joseph, Beyrouth*, vol. [illegible] pp. [illegible]
16. On pre-Islamic Arabian beliefs concerning the heavens, see J. [illegible], "[illegible] und [illegible] in Nord- und Zentralarabien," *Zeitschrift für Ethnologie*, vol. [illegible] pp. [illegible] See also T. Fahd, *Le Panthéon de l'Arabie Centrale à la Veille de l'Hégire* (Paris: Paul Geuthner, 1968), on pre-Islamic religion in general.
17. See D.A. King,* World, Section 4 and Appendix A.

Ahu a 'Umi Heiau

A Native Hawaiian Astronomical and Directional Register

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BACKGROUND

In recent years an interest has developed in identifying native astronomical registers at various archaeological sites.[1,2] Although such registers have been reported from Oceania, none has been positively identified in Hawaii by actual alignment sightings. There is a hint of one such celestial register at Cape Kumukahi, Hawaii, in legend.[3,4]

A gap exists, then, in archaeoastronomic studies in Hawaii. The ancient Hawaiians, in spanning the Pacific Ocean during the migratory period, were seafarers who navigated confidently by the night sky.[5] They were a people who knew of the celestial positions of rising and setting stars, sun, moon, and planets. Not only did they search the sky for omens; they also used a farming and fishing calendar based on the cycle of the moon. Their culture reflects a knowledge of the sky. Yet, archaeologists have not found a definitive *heiau* that positively relates that knowledge.

A *heiau* is a Hawaiian temple, usually a walled enclosure resting on a paved platform (*kahua*). In Ahu a 'Umi Heiau may be found an astronomical-directional register that could provide insight into how ancient Hawaiians structured the sacred cosmos of the sky to a sacred space

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Editors and Conference Chairmen
ANTHONY F. AVENI AND GARY URTON

CONTENTS

Introductory Remarks. *By* Anthony F. Aveni and Gary Urton vii
Woven Heaven, Tangled Earth: A Weaver's Paradigm of the Mesoamerican Cosmos. *By* Cecelia F. Klein 1
Pyramid and Sacred Mountain. *By* Richard Fraser Townsend 37
Precision in the Layout of Maya Architecture. *By* Anthony F. Aveni and Horst Hartung 63
Astronomy, Cosmovision, and Ideology in Pre-Hispanic Mesoamerica. *By* Johanna Broda 81
The Zenith, the Mountain, the Center, and the Sea. *By* Clemency Coggins 111
A General Consideration of the Maya Correlation Question. *By* [illegible] 125
The Double-Headed Dragon and the Sky: A Pervasive Cosmological Symbol. *By* John B. Carlson 135
Astronomical Models of Social Behavior Among Some Indians of Colombia. *By* G. Reichel-Dolmatoff 165
The Pleiades and Scorpius in Barasana Cosmology. *By* Stephen Hugh-Jones 183
Collca: The Role of the Pleiades and of the Southern Cross and α and β Centauri in the Calendar of the Incas. *By* R. T. Zuidema 203
Astronomy and Calendrics on the Coast of Peru. *By* Gary Urton 231
Archaeoastronomy at Machu Picchu. *By* D. S. Dearborn and R. E. White 249
The Information System of Middle Horizon Quipus. *By* William J Conklin 261

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632

TABLE 1

Cairn	Azimuthal Reading	Associated Astronomical Feature
A	[illegible]	
B	[illegible]	Summer solstice sunrise Arcturus (rising) Pleiades (rising)
C	[illegible]	Winter solstice sunrise Antares (rising) Canopus (rising)
D	[illegible]	
E	[illegible]	
F	[illegible]	Winter solstice sunset Antares (setting)
G	[illegible]	Regulus (setting)
H	[illegible]	

line at close to a right angle. With our aerial photographs, we determined a point on the north-south base line that roughly corresponds to the spatial center of the whole complex. Realizing by now that the western enclosure's corner junction may have served as an "east-west pointer," we extended this line to that point on the north-south baseline. We posit an astronomical center, but the heiau must also be associated with terrestrial bearings of significance. With an accurate topographic map we plotted the bearing directions of Waipi'o Valley, Hawaii, 'Umi's birth place, and also the summits of the three surrounding high mountains, transposing all these bearings onto an accurately produced base map. These were checked against an enlarged, vertical aerial photo before proceeding with the placement of our transit in situ to match the central point on the map. From this point, directions and scaling lengths were measured, including routine measurements of wall lengths, cairn widths, and so on. As a check on the precision on our north-south base line, we conducted a noon-shadow line experiment at the winter solstice. In this, the shadow of a pointer falls on the north-south line at local noon when the sun transits the meridian at Ahu a 'Umi.

We assigned letters to cairns starting with Cairn A east of north and working clockwise through the next seven cairns, B, C, D, E, F, G, and H. The widths of the cairns allow for approximate naked eye sightings of astronomical phenomena, assuming that astronomical observation was an intended purpose of Ahu a 'Umi's design. The results of winter solstice readings of the cairns from the center point are given in TABLE 1.

AHU A 'UMI AND THE TRADITION OF HEIAU CONSTRUCTION

We shall now look at Ahu a 'Umi from the standpoint of the tradition of heiau construction and use.

Hawaiian historian Samuel Kamakau points out that, in heiau construction, the foundation was laid down before enclosing walls were made.[16] "When the kahua (foundation) of the heiau was finished a stone wall was built around it, and seven terraces (uwa'uwa'u) made." Kamakau is talking about a terraced heiau, not one like Ahu a 'Umi, but it is true for both types that the design of the heiau was contemplated before it was laid out and the building of the walls was not attempted until the plans for each of the components had been determined. Malo attests that the architect first exhibited the plans of the heiau on the ground to the high chief with an explanation of all its significant parts:

> "If the king, the priests and others agreed that it was best to build an entirely new heiau, the kahuna kuhi-kuhi pu'u-one was sent for. It was his function to exhibit a plan of the heiau to the king . . . the plan of which the kuhikuhi pu'u-one explained to the king; and if the king was pleased, he first made a sort of plan of the heiau on the ground and exhibited it to the king with an explanation of all its parts, so that he could see where the fence was to run, where the houses were to stand, and where was the place for the lanana/u-mnukea with the idols."[17]

There are at least two categories of heiau. One type is the Lono heiau related to the god of peace and agriculture; the other is the Kū heiau for the god of war and human sacrifice. Structurally, the Kū type is usually built with a smaller companion enclosure called the Hale o Papa (House of Earth-Mother) nearby. The Lono type does not have the companion. Within the confines of a heiau, space is assigned to male and female. The male sides are usually north and east; the female, south and west.[18] From this description, it appears that Ahu a 'Umi heiau is patterned along the Kū type.

The literature reports that, in measuring distance and in enclosing space in a heiau, the builder used a stretching cord (aho hele honua, "earth-going rope") from a pivotal point to square corners and circumscribe area.[19] The limits of the heiau outside the walls of the Hale o Papa and main enclosure of a Kū heiau beyond the papahola border were marked with crosses.[20] If the aho hele honua stretching cord was used to circumscribe the area of a rectangle, such as one of the sacred houses on the heiau, it seems likely that it was also used to determine the

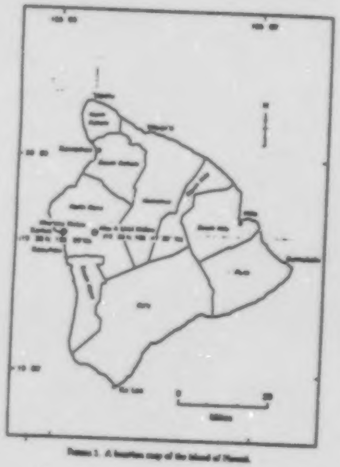


FIGURE 1. A location map of the island of Hawaii.

on earth. The Hawaiian word also means a "heaping," as of rocks, or a "gathering," as of people.

Ahu a 'Umi Heiau sits at an elevation of 1600 meters, on the high, flat saddle between the volcanoes Mauna Loa (4170 meters high) and Hualalai (2520 meters high). Mauna Kea (4205 meters high), the highest mountain in Hawaii, rises impressively to the northeast.

The heiau's location is at 19° 38' N, 155° 47'W W. It is the farthest inland and the highest of all large, precontact (i.e., pre-European discovery period) heiaus in the Hawaiian Islands (FIGURE 1).

Native Hawaiian tradition claims that this heiau is that of 'Umi, a high-ranking chief who united eight districts under his rule some five centuries ago. Another ancient legend says that, after consolidating the eight districts, 'Umi undertook a census of his newly acquired territory, which included the whole island of Hawaii.

Since the priests participated in the king's census-taking, they were very suitable for setting the dates of significant ceremonial events. Census-taking was a prelude to taxation, particularly after conquest, consolidation, and reapportioning of land. The noted Hawaiian chronicler, David Malo, informs us that the heliacal rise after sunset of the Pleiades in autumn heralded the beginning of the makahiki festival, when taxes were collected:[6]

> The Polynesian year, as noted by Ellis, Fornander, Moerenhout and others, was regulated by the rising of the Pleiades, as the month Makali'i began when that constellation rose at sunset, i.e., about November 20.[7]

Makemson also places the beginning of the makahiki at the rising of the Pleiades, "late November or early December," on the "new moon after the first appearance in the eastern sky in the evening twilight."[8]

THE STRUCTURE OF AHU A 'UMI HEIAU

The structure of the heiau is a complex of three parts: (1) a central rectilinear enclosure or esplanade 22.8 meters long by 17.4 meters wide, (2) eight cairns, or ahus of stones, irregularly spaced around this central esplanade on the north, east, south, and west, (3) a smaller stone enclosure to the west, the walls of which are 8.88 meters (N), 7.43 meters (S), and 6.70 meters (W). The southwest side of this smaller structure with its entrance is 8.44 meters long (FIGURE 2).

In 1840, men from a United States Navy Exploring Expedition conducted the first survey of Ahu a 'Umi. The survey map showed an ar-

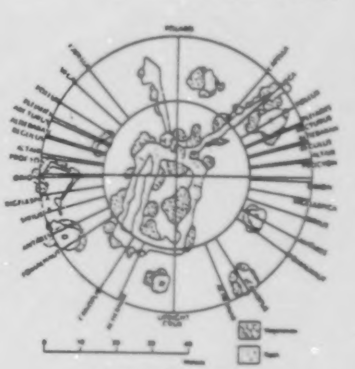
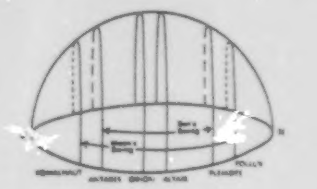


FIGURE 3. Star compass, A.D. 1000.

pivot point from the center to the papahola limits. Hawaiian heiaus are of circular as well as rectangular form.[21]

We posit that, once this spot was determined, the priest established his north-south base line by aligning the poles to Hōkūpa'a (Polaris), "fixed-star," and Newe/Hānai, the upright Cross.[22] His east-west base line would then be established at the equinox, with Orion's belt (Na Kao) rising only one degree south of the point of equinoctial sunrise. This east-west line corresponds to the celestial equator, ke alanui i ke piko o Wākea, "the way to the navel of Wākea" (the universal Sky-Father).



Rising Stars

FIGURE 4. Hawaiian sky dome.

THE HAWAIIAN GOURD COMPASS-CALENDAR

Tradition also reports the existence of a so-called "gourd compass" (FIGURE 3). From the definition of this gourd, we can guess that it contains a representation of the cosmos that includes the northerly and southerly swing of the sun, the celestial equator, and the points of rising and setting navigation stars. Such a compass served as a register for the Hawaiian "tropical year of 360 days" (FIGURE 4).

The ke alanui polohiwa a Kāne, meaning the "black shining road of Kāne," and the ke alanui polohiwa a Kanaloa, meaning the "black shining road of Kanaloa," were represented by parallel lines that marked the northern and southern march of the sun. The annual motion of the sun, the northward and southward swing of the sun during the year, was described as ke ala o ke ku'uku'u, meaning the "pathway of the spider." It is that distance on the gourd compass between the two parallel lines. This served as a measure of time; that is, it represented 180 days, half the Hawaiian tropical year.

Thus, the gourd compass may be seen as (1) a directional guide and (2) a calendar. As a compass it provides azimuthal directions for the rising and setting of navigational stars; as a calendar it integrated the Hawaiian

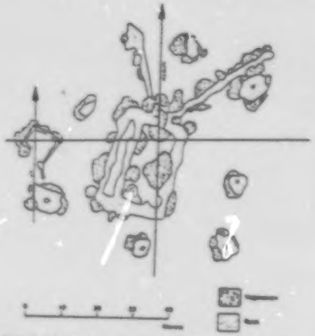


FIGURE 2. A directional and scaled location map of the Ahu a 'Umi Heiau complex.

rangement of cairns around a central structure with instructions in both sowing and harvest.[4] The surrounding cairns were described as flattop pyramids with bases wider than the tops. These generally fit the description of astronomical platform observing sites in the Gilbert Islands:[5]

> "Bomonous. A boamaaw was a platform built up of large stones, upon which the Gilbertese male of adult years performed the magico-religious ritual known as te kaati. The base of such a platform would measure from 3 to 6 feet square; its height would vary between 2 and 12 feet; its sides tapered inwards very gradually from base to summit. The summit was flat, being levelled off with fine shingle, in order to afford a sitting-place for the person performing the kaati ritual. A boamaaw was placed by preference

> on the eastern side of an island, but any site which commanded an eastern horizon was considered satisfactory. The ritual of te kaati was performed at the point of dawn, facing the sunrise.

The arresting feature of the expedition diagram, called the "Wilkes's map," is a central corridor (which does not exist today) running in and through the central esplanade. A ground search conducted by our archaeological field team yielded no evidence of its existence.

About a hundred years ago, stones were removed from some of the cairns to construct stonewall extensions from the northern wall outwards, probably for herding livestock into the central enclosure. Portions of the cairns and the central esplanade are in dismantled condition.

However, and this is important, while some cairns and walls appear to be in disarray, owing to decades of neglect in an area prone to shuddering earthquakes and, in recent times, to inadvertent vandalism through minor resetting of stones, the complex appears, on the whole, to have maintained the geometry of its arrangement and its basic form. This structural integrity is most apparent when viewed from above.

FIELD OBSERVATIONS AT 'UMI'S HEIAU

In March 1985, we took aerial photos of the site. These photographs were subsequently used to produce a map of the heiau. An understanding of the heiau's function as an astronomical register would depend upon: (1) knowing the north-south baseline, (2) having a scaled base map of the whole complex, and (3) relating the azimuthal bearing of cairns to the azimuthal positions of rising and setting stars, sun, and moon. For this we must start from the pivotal vantage point, a center.

At the summer solstice we noticed that the sun rose behind the northeast cairn (subsequently labeled "Cairn B"), from a vantage point not at the center of the esplanade but closer to its northern door. We then asked ourselves, if the central esplanade did not exist, where would the spatial center of the complex be located, based on procedures used in heiau construction? The arrangement of 'Umi's heiau suggests that it was designed according to prescribed rules for constructing a symbolic design of the cosmos on earth.

Our first task was to plot the north-south base line by taking transit sightings of Polaris, using it as our reference star. At the autumnal equinox, we noticed that the western corner junction of the smaller outside enclosure had a pointedly true east-west orientation. An extension of a line on this orientation would intersect our north-south base

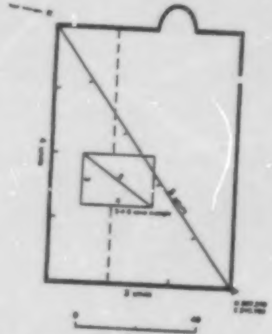


Figure 8. Kahua dimensions of a "house site" (kahua), the proportions of which are similar to those of Ahu a 'Umi Heiau.

mother." These indigenous terms are concepts of dimension expressed in the symbolism of profane space made sacred by relating sky to earth, which is a rationalization of cosmology.

If the Pythagorean five-unit side is used as a measure, then the Hawaiian tropical half-year of 180 days may be partitioned into five single units of 36 days each on the diagonal of 'Umi's heiau:

3 units × 36 days = 108 days
4 units × 36 days = 144 days
5 units × 36 days = 180 days

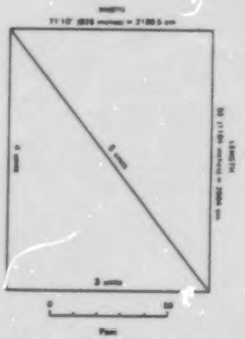


Figure 9. Kahua dimensions of Ahu a 'Umi Heiau based on the Wilkes map of 1840.

The squares (areas) of these sides would correspondingly be:

9 units × 36 days = 324 days
16 units × 36 days = 576 days
25 units × 36 days = 900 days

The sum total of these would be 1800 days, or 10 Hawaiian tropical half years, or 5 Hawaiian tropical years of 360 days.

Thus, symbolically, the kahua of the central enclosure of 'Umi's heiau is represented by time. In the mind-set of the astronomer priest, area is equated with time, space with days.

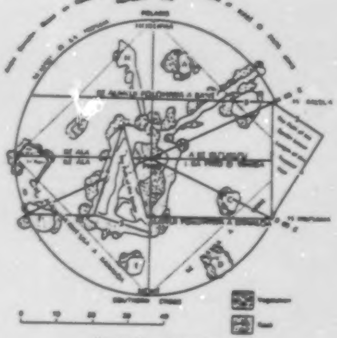


Figure 10. The path of the spider.

AHU A 'UMI HEIAU AS A DIRECTIONAL REGISTER

A particular feature of this heiau is that its main axis is not oriented towards Polaris, near true north, but tilted to east of north. This tilt is directly oriented to the azimuthal rising of Dubhe, the rim star of the Big Dipper (which is called, in Hawaiian, *Na Hiku*—the seven). The rising point of Dubhe accords with the direction of Waipi'o Valley, the birthplace of 'Umi. We suggest that this may be a reason for the tilt of the main enclosure, so that the "Royal Star" can be viewed through the opening in-

to the main enclosure. If this is the case, and more study is needed, then the entrance is directionally and astronomically aligned to the positions of the Big Dipper around Polaris, nightly and throughout the year.

There are other orientations that, we suggest, are significant. Cairns B and C on the sunrise side and Cairns E and G on the sunset side accommodate the most northerly and southerly extents of the moon's swing as well as those of its minimum nodes. From the pivot point, the most northerly extent of moonrise aligns with the summit of Mauna Kea. Cairn B in particular, the largest and the best existing ahu, appears to be a significant ritual platform for the observation of (1) the summer solstice rising sun, (2) the heliacal rise of the Pleiades, which is associated with the great makahiki season, and (3) the rise of Arcturus, the navigational zenith star of Hawaii. (Figure 11).

One is awed by the genius of the architect. He had to arrange the geometry of Ahu a 'Umi Heiau to accommodate significance in solar, lunar, stellar, and terrestrial orientations. We believe that he succeeded in this effort. Hōkūloa, the Morning Star, Venus, was the most prominent feature in the early morning sky on that winter solstice morning. The extent of Venus's role at Ahu a 'Umi escapes us. Perhaps only the *kahuna kilo* knew.

SUMMARY

This article is only a preliminary note to interested observers in ethnoastronomy and archaeoastronomy that the geometry of the Ahu a 'Umi Heiau on the island of Hawaii is arranged so as to align, astronomically and directionally, with the moon, the sun, the stars, and an imposing mountain top, as well as the birthplace of the Hawaiian high chief for whom the heiau was constructed. This arrangement assumes meaning when placed in the context of the astronomical knowledge of the ancient Hawaiians embodied in the Hawaiian star compass-calendar and the ancient rituals associated with the cosmography of terrestrial and celestial space.

If the gourd-compass diagram of instruction by Kaneakaho'owaha, considered in the light of this study of Ahu a 'Umi, may be given credence, then the results may reflect the inference of [illegible] that

there is ample evidence that the Polynesians visualized a zone about 50° wide symmetrical about the celestial equator, and bounded on the north by a parallel of declination through the June solstice and the Pleiades and on

tropical year with the altitudinal movements of stars across the night sky.[18] While this compass-calendar was designed to be set in a gourd, perhaps as a mnemonic device, it could also have been carried in the mind of the Hawaiian *kahuna kilo hōkū* (star-gazing priest).

The concept of the center of the earth is expressed in Hawaiian as *ke piko o ka honua*, "the navel of the earth," that of the horizon circle as *ke kukulu o ka honua*, or ambit of the circumscribed area, the "compass of the earth." Measuring with the cord was called *o ka'i i ka aho kele honua*, "to lead the earth-going cord." A circle measured by this cord would intersect lines extended toward the solstice sunrise and sunset points from a center. The line of a cord drawn or stretched between the solstice points on the circumference of the ambit represents the annual motion of the sun on the ecliptic, called the "pathway of the spider" (*ke ala o ke lo'ulu'u*). This length would represent both distance and time, that is, a given distance on the ground requiring the passage of 180 sunrises or sunsets, or one-half the annual path along the ecliptic (tropical year with intercalation of about five days). A specific measured length of earth may then be identified with the measured time in the sky. From this arrangement the number of days from solstice point to solstice point could be expressed as a given distance marked on the ground or along the horizon. This length represents the "path of the spider."

THE PYTHAGOREAN TRIANGLE AND THE PATH OF THE SPIDER

A feature in some Hawaiian heiaus is a distinct ratio between the length and breadth of the foundation. We found that Ahu a 'Umi had a width of 17.4 meters and a length of 22.8 meters, which gives a diagonal of a right-angled triangle that accords with the proportions of the Pythagorean triangle (Figures 5 and 6). On this basis, we provide a theoretical representation of Ahu a 'Umi (Figure 7). This representation fits not only this heiau but other heiaus elsewhere (Figures 8 and 9). We believe that the Pythagorean ratio is one of the ratios used in the construction of heiaus in Hawaii.

At Ahu a 'Umi, we discovered that the distance between the entrance corner of the Hale o Papa enclosure and the central point, defined as the piko (navel), is related mathematically to the length of the diagonal of the main enclosure, supporting the belief that our central point is close to the focal point for the whole complex. If we use the Hale o Papa distance as a radius and draw a circle centered on the pivot point, we would find

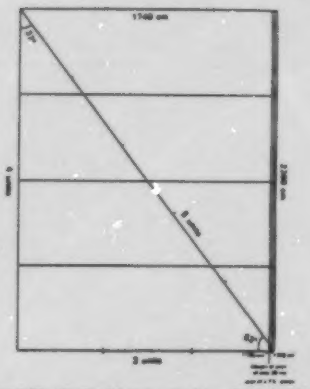


Figure 5. Kahua dimensions of the interior section of Ahu a 'Umi based on field measurements.

that the straight line joining the solstice points on this circle would be the "path of the spider," representing 180 days of the Hawaiian tropical year (Figure 10).

We further discovered that the length of the "path of the spider" matches the diagonal length of the main enclosure, the five-unit side of the Pythagorean triangle.

The relationship between the radius from the Hale o Papa structure to

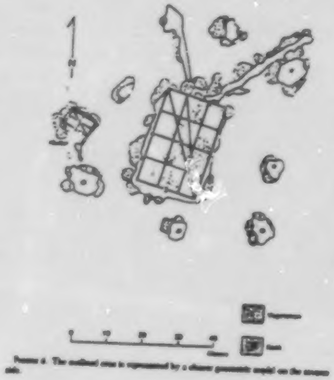
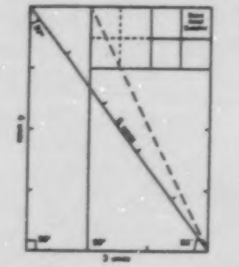


Figure 6. The outlined area is represented by a clearer geometric model on the opposite side.

the pivot point, the length of the main enclosure, and the ground length representing 180 days of the Hawaiian tropical year can be expressed mathematically.

At Ahu a 'Umi, if the radius of the circle of the earth is assigned a value of one, and the angle subtending the solstice points is θ, then the mathematical relationship can be expressed as:

2 sin θ = the chord joining the solstice points on the circle



The Pythagorean Theorem: "The square of the hypotenuse is equal to the sum of the squares of the other two sides."

$$(5 \text{ units})^2 = (3 \text{ units})^2 + (4 \text{ units})^2$$
$$25 = 16 + 9$$

Figure 7. A possible theoretical arrangement of Ahu a 'Umi Heiau.

Expressed in another way:

$$2 \sin\theta = \frac{\text{ke ala o ke lo'ulu'u}}{\text{radius of ke kukulu o ka honua}}$$

$$2 \sin\theta = \frac{\text{the path of the spider}}{\text{radius of the compass of the earth}}$$

This relationship is trigonometric and important to the understanding of heiau construction. The diagonal length of the heiau is set by the length of the "path of the spider," which, in turn, is determined by the size of the "compass of the earth," which is set by the radius extending from the "navel of the earth" to the edge of the "house of Papa, earth-

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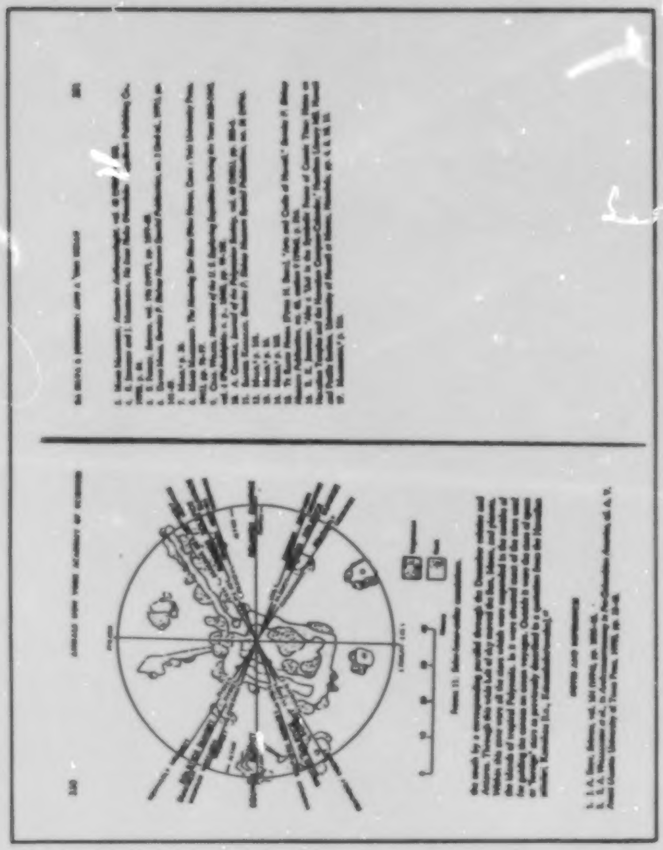

November 23, 1982

TO: The Native Hawaiians Study Commission

FROM: Georgette Kala, Graduate Student
UH School of Social Work

The attached two proposals are submitted in response to the needs of the Native Hawaiian population as defined by the Commission's report.

The proposals outline possible program ideas that could be funded through the awarding of reparations money to Native Hawaiians. I would be glad to develop the program proposals in greater detail or to discuss with you my ideas on more positive and constructive ways to help Native Hawaiians.

The Commission's report made an important objective statement about the status of the Native Hawaiians. My only recommendation is to include a section that would make a subjective statement about the emotional and mental health status of the Hawaiian people in the island community today. It might include in-depth interviews about what it is like to be an Hawaiian or research data on the degree of ethnocentrism felt by Hawaiians of different socio-economic and age levels.

Thank you for the opportunity to respond to the report of The Native Hawaiians Study Commission.

Mahalo.

PROGRAM PROPOSAL:

The program proposes to use reparations money to establish an educational trust fund to meet the special needs of children who demonstrate unique talents and abilities: the academically talented, craftsmen and tradesmen and performance artists.

PROGRAM RATIONALE:

The Native Hawaiians Study Commission reports alarming statistics about the educational status of the Hawaiian population. A summary of the report states that in 1970:

1. a significant percentage of native Hawaiian children between the ages of 14 and 17 were NOT enrolled in school
2. native Hawaiians over 25 years of age did not finish as many years of school as other ethnic groups
3. only 49.7 percent of native Hawaiians over 25 had graduated from high school
4. a very significantly low percentage of native Hawaiians over 25 completed 4 or more years of college

This poor educational record of native Hawaiians support a need for:

1. the identification and recognition of academically talented students, craftsmen and tradesmen and performance artists
2. the development of educational programs to stimulate and challenge these special talents and abilities
3. the encouragement of students to be productive individuals whose achievements reflect group- and self-identity with their Hawaiian cultural heritage

PROGRAM OF SERVICES:

ACADEMICALLY TALENTED

Focus	Services
- to identify students with exceptional scholastic ability - to provide educational opportunities for the development of academic talent - to recognize individual scholastic achievement	- organize a systematic search for students with high abili achievement, academic intere and motivation - provide diagnostic psycho-educational testing to assess potential - award tuition grants to qualified students to schools of their choice - provide scholarship grants to students for special educational enrichment programs (e.g. computer programming, science workshops) - recognize individual achievemer through competitive activities (e.g. essay contest, speech festivals, research papers, special projects, etc.)

PERFORMANCE ARTS

Focus	Services
- to identify students with potential creative ability in the performing arts - to provide training opportunities for the development of performance skills - to recognize individual achievement in the performance arts	- conduct a systematic talent search for creative, motivated students in the performance arts - consult, evaluate and provide guidance by master teachers in the different performance areas - award scholarship grants for private, specialized lessons - invite qualified students to enroll in a highly selective school for the performing arts - award grants to successful Hawaiians to encourage them to create project that will demonstrat their talent - provide job placement service t assist students in preparing for auditions, interviews an other training opportunitie

CRAFTSMEN AND TRADESMEN

Focus	Services
- to identify students who demonstrate exceptional skills as craftsmen and tradesmen - to provide training opportunities for the development of vocational skills - to recognize individual achievement	- conduct a systematic search for skilled, motivated students i the trades and crafts - develop apprenticeship training programs - provide on-the-job training with volunteer master craftsmen and tradesmen - participate with DOE in providin a vocational training school - fund special projects designed t be economically productive an skilled-oriented

YOUNG HAWAIIANS CIVIC CLUBS

Focus	Services
- to instill pride among Hawaiian youth for their cultural heritage	- organize youth clubs in every community and/or neighborho at all age levels: element y, intermediate and high schoo
- to develop a cooperative spirit among young Hawaiians	- encourage community service pr ects (individual and/or group)
- to proide leadership training opportunities	- promote achievement-oriented t ks (individual and/or group)
- to recognize achievement among Hawaiian youth	- sponsor a summer convention of elected representatives from the different clubs
	- organize cultural activies - sc g contest, hula competition, ts and crafts show, special pr grams (May Day, Aloha Week)
	- provide socialization opportun ies (dances, picnics, etc.)
	- recognize individual and group achievement (prize money, g ts, scholarships, etc.)

PROGRAM PROPOSAL:

The program proposes to use reparations money to establish and maintain a community based program of social, economic, educational, ehalth and political services to the Hawaiian and part-Hawaiian population.

PROGRAM RATIONALE:

The Native Hawaiians Study Commission presented information and statistics on various socioeconomic and cultural factors affecting the lives of native Hawaiians. Hawaiians and part-Hawaiians comprise about 19% of the State's population and is today, becoming the most rapidly expanding ethnic group in Hawaii. However, the Commision's report summarizes problems that characterize the native Hawaiian population.

1. Education. A higher percentage of native Hawaiian children between the ages of 14 and 17 years were not enrolled in school. Only 49.7 percent of native Hawaiians over 25 had graduated from high school in 1970. Native Hawaiians also had the lowest percentage of college graduates (only 4.2%). They also comprised only 7.0 percent of the teaching staff in the public school system.

2. Socio-economic. The unemployment among native Hawaiians in 1970 is higher than the state average rate. In 1975, over one-fourt (27%) of native Hawaiians were classified as below the poverty level Significantly more native Hawaiians were receiving welfare assistanc Statistics also indicate that in 1981, more Hawaiian adults were arrested and the picture for native Hawaiian juveniles arrested is even more striking. Native Hawaiians juveniles comprised the larges percent of juveniles arrested for crimes committed.

3. Health. Native Hawaiians have a higher birth rate than oth ethnic groups. Infant mortality rate has decreased although it rema s higher for native Hawaiians. The trend also continues for a shorter life expectancy. Native Hawaiians report the highest incidence of respiratory condition and heart disease.

4. Politics. Native Hawaiians comprise the fourth largest ethnic group but only 31 percent were registered to vote. Of that 31 percent of registered voters, only 80 percent actually voted. Th 1981 Hawaii State Legislature consisted of seven part-Hawaiians in the House of Representatives (out of a total of 51). Only three out of a total of 25 State Senators were part-Hawaiians.

The Commission's study clearly defines areas of need that will require immediate and concentrated attention. The solution must be all encompassing; it must be readily accessible, identifiable and most importantly, it must be viewed as a joint effort by Hawaiians for Hawaiians. The services provided must not be mere hand-outs; th must be structured as a natural outpouring of a people caring for it own and they must reflect the customs and lifestyles of the native Hawaiians.

A community-based program of services would provide the impetus and functional structure that would make the native Hawaiian population a viable, effective and productive minority group in the Island These community centers would be located in geographical areas where there is the largest concentration of native Hawaiians.

PROGRAM OF SERVICES:

EDUCATIONAL PROGRAMS

1. Cooperative Day-Care/Pre-School Center

Focus	Services
- to teach early childhood growth and development	- organize a lending library of educational games, toys and instructional materials
- to demonstrate effective parenting	- provide diagnostic screening of children's learning potential and development
- to provide release time for parents to pursue part-time employment and/or self-improvement interests	- make referrals to community agencies for individual evaluation and treatment
	- provide remedial/corrective developmental programs for individual needs

2. After-School Program

Focus	Services
- to provide supervised care for school-aged children after the regular school day program	- arrange individual and/or small group academic tutoring with kupunas
- to provide additional academic support resources for children with learning difficulties	- supervise study rooms for children to complete homework assignments
- to utilize kupunas as "teacher" resources for children	- make referrals for psycho-educational evaluation of children with potential learning difficultires

3. Hawaiian Language School

Focus	Services
- to stimulate the use of the Hawaiian language by Hawaiian children	- schedule regular classes for th the different levels of language study
- to utilize kupunas in teaching language skills	- record oral history as related by kupunas
- to recognize the Hawaiian language as an academic course of study	

SOCIAL PROGRAMS

1. Supervised Recreational Programs

Focus	Services
- to develop individual recreational interests and physical skills	- training facilities for physical fitness and/or recreationa enjoyment
- to develop good sportsmanship in competitive athletics	- supervised competitive sport

2. Cultural Activities

Focus	Services
- to perpetuate Hawaiian music, dance, arts and crafts	- provide meeting place for cl and other community organizations
- to encourage "Hawaiian awareness" and appreciation of cultural history, traditions and lifestyles	- assist in the organization ar implementation of a progra of club activities for you Hawaiians
	- sponsor festivals to recogniz individual achievement in different cultural skills
	- develop instructional program using master teachers and kupunas
	- organize Hawaiian teams as volunteer resources to DOE and summer recreational progra

HEALTH PROGRAMS

Focus	Services
- to function as a referral clearinghouse for health needs and problems	- provide health counseling and assist in making appropria referrals for medical attention
- to be a resource for information about health/medical needs	- schedule informational meetin with emphasis on specific medical problems of native Hawaiians
	- utilize community mental heal services - assist in makin appropriate referrals

ECONOMIC PROGRAMS

Focus

- to encourage job productiveness
- to provide career/job training guidance

Services

- establish and maintain a job placement service
- organize cooperative work/study programs utilizing resources of successful Hawaiian businessmen and tradesmen
- offer facilities use for evening adult education classes (UH or Kamehameha's Continuing Education program)
- volunteer apprenticeship program-skilled tradesmen teaching interested students and/or adults

POLITICAL PROGRAMS

Focus

- to encourage civic responsibility through informational meetings
- to recognize and effectively use political action in dealing with native Hawaiian issues
- to develop leadership through on-the-job training opportunities in the organizational structure of the center

Services

- elect and organize a political action committee to serve as an advocate for native Hawaiian causes and as an interpretive source of information regarding Hawaiian issues
- schedule of informational meeting on topics such as voter registration, current political issues
- elect advisory board to manage activities of the center
- organize leadership training sessions for all elected positions in the organizational structure of the center

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REC'D OCT 13 1982

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9/9/82
Bill Kamai
1541 Kalakaua Ave., apt. 310
Honolulu, HI. 96826

Aloha e kakou,

Firstly, I hope my thoughts find all of you in good health and spirit. Secondly, I hope my informal format doesn't insult you, or confuse you.

I've read the first draft, and I found many things in it to be disturbing. Asking myself why, I came up with the fact that there were many half-truths, and outright omissions on events which would clearly bias one towards the Hawaiians' viewpoints.

The most glaring omission was the chapter on religion. Hawaii was based on a theocracy before the overthrow of the Kapu system. I find it ludicrous that such an upheaval would be chronicled with [illegible] pages by your commission. Religion has always been an integral part of Hawaiian life, and to ignore its metamorphosis, and its effects on our culture through our chaotic past two centuries is abominable.

Another glaring omission deals with education. Page 86 of your report does not mention that the Hawaiian language was a mandatory subject (please read Act 191, attached) from 1919-1978 in our schools. However, the law was effectively ignored. Being Hawaiian was somehow deemed un-American. Even Kamehameha Schools, that bastion of Hawaiian culture pursued an active program of squashing the Hawaiian language in favor of teaching the Queen's English (and I'm not referring to Liliuokalani). The Hawaiian language - the heart of the Hawaiian culture, continues its inexorable decline to termination. Today, in view of our "Hawaiian Renaissance" a mandatory Hawaiian language program is imperative.

Without grasping the thoughts that manifest themselves in our language, all attempts at revitalizing our culture is a sham.

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The 1978 Con-Con. mandated teaching Hawaiian in our schools, but two generations of Hawaiians have been weaned off their mainsprings. Economics and a lack of qualified teachers make this task enormous. A trust was broken by our school system, both during territorial and statehood days. We've lost too many Hawaiian minds to the haole way to bring all back, but perhaps a genesis can be gotten with a hard core of our keiki, taught our language as the law mandates, but the government ignores.

Pages 233,234 seems to make some conclusions, which I was given to understand wouldn't be in the first draft. This has to do with compensation extinguishment. I believe the conclusion that the United States is free of obligation is unjust. For one thing, I personally was not born until 1962 which makes it pretty hard to file for compensation which expires a year before I existed.

But the main objection I have is that aboriginal values seem to be caught up in "Catch 22" type legalese. The Hawaiians had a caretaker mentality incompatible with capitalist concepts. Yet the laws were set up to compensate for title loss. True, the "Great Mahele" did dole out titles, but this was to satisfy foreign capitalist criteria, than to change the Hawaiian mind-set of land caretakership. Because of this, the Indian Claims Commission Act, Section 2 seems moot since it seeks to constrain Hawaiian values with alien rules.

Furthermore, the United States' interest in Hawaii, as manifested by its representative, Stevens, ordering U.S. troops onto Hawaiian soil without its government's permission, at the request of U.S. citizens (who had sworn an oath of loyalty to the Hawaiian government), and the subsequent admission of the islands as a territory should be followed with responsibilities. The United States seemed to think there were enough benefits

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to intervene in Hawaii's affairs. It helped disenfranchise Hawaii's people; took their destiny out of their own hands.

The United States became involved, but now that the Hawaiians are asking for a piece of their own destiny - the U.S. disavows any action its taken. My personal opinion of this is that I'm being lied to - to my face - and I know it.

Pages 239,240 simply reemphasize the United States' denials of trust, which simply reemphasizes its fraud.

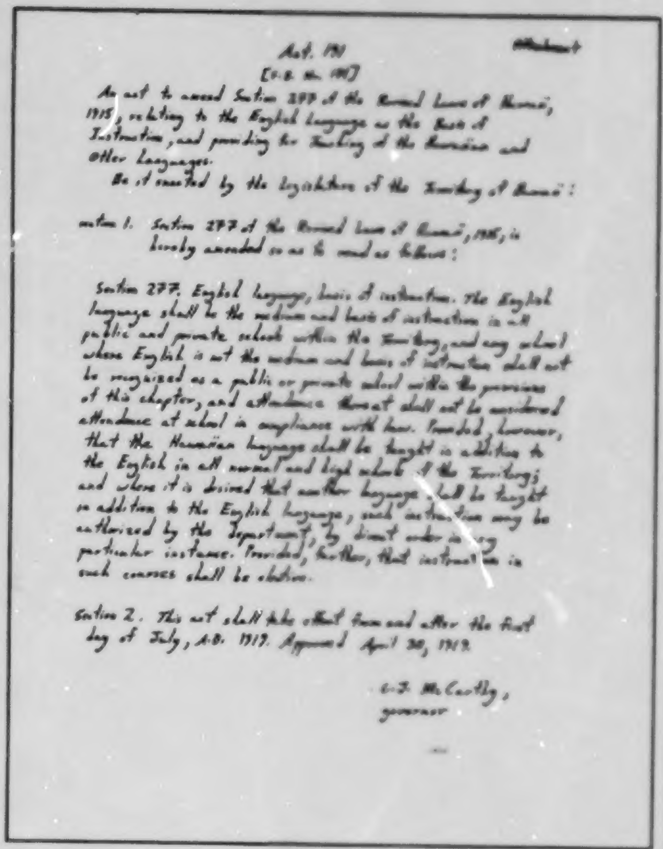
A quick change of subjects to the H.H.C. I feel some changes would benefit Hawaiians. Then I disagree with another "conclusion not in the first draft." (p. [illegible]). I feel [illegible] should be mandatory to help propagate changes in the system. I believe condominiums should be built on urban land to accommodate more Hawaiians with jobs in the city. I would like to see apartment buildings built to let Hawaiians of less than 50% third generation have a place to live.

I disagree with the conclusion of page 319 that a priority day be mandatory if a family must leave Oahu. Most of the jobs are on this island. If a family isn't ready to farm, and a man must quit his job, only to be unemployed on his own land on another island - this does not make sense. Perhaps a family can be told a year prior to receiving their land that they will be awarded it. Thus valuable time to prepare is available.

My last kuleana is with the total lack of mention of the leper's plight. The majority are Hawaiians, and they've been treated like 3rd class citizens.

Mahalo for listening to my concerns. I'm sorry if I'm a bit abrupt, or lack communication abilities. But please listen to what I've said - mahalo nui.

Aloha no,
Bill Kama



Attachment

Act. 191
[S.B. No. 191]

An act to amend Section 277 of the Revised Laws of Hawaii, 1915, relating to the English language as the basis of instruction, and providing for teaching of the Hawaiian and other languages.

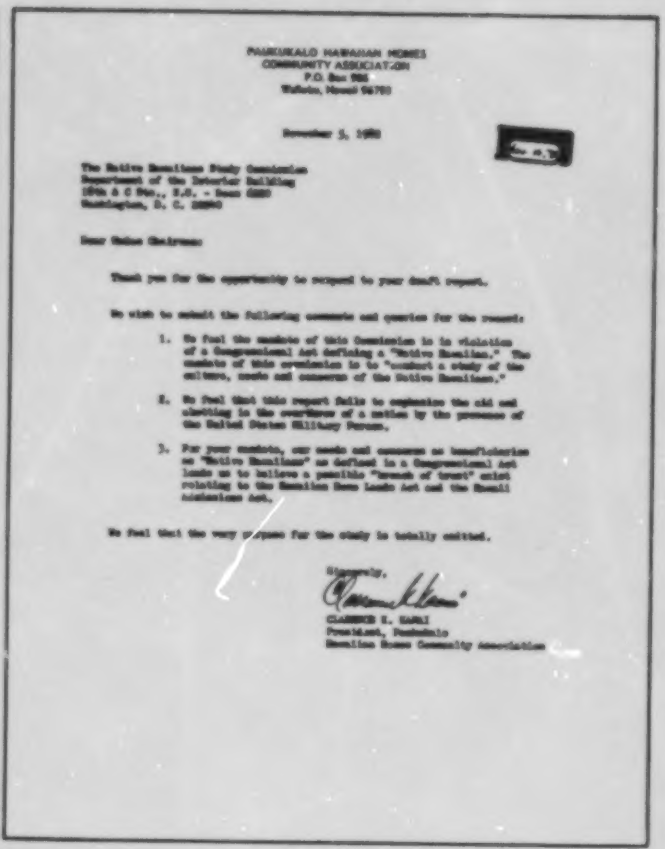
Be it enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 277 of the Revised Laws of Hawaii, 1915, is hereby amended so as to read as follows:

Section 277. English language, basis of instruction. The English language shall be the medium and basis of instruction in all public and private schools within the Territory, and any school where English is not the medium and basis of instruction shall not be recognized as a public or private school within the provisions of this chapter, and attendance thereat shall not be considered attendance at school in compliance with law. Provided, however, that the Hawaiian language shall be taught in addition to the English in all normal and high schools of the Territory; and where it is desired that another language shall be taught in addition to the English language, such instruction may be authorized by the Department, by direct order in any particular instance. Provided, further, that instruction in such courses shall be elective.

Section 2. This act shall take effect from and after the first day of July, A.D. 1919. Approved April 30, 1919.

C.J. McCarthy,
governor



PAUKUKALO HAWAIIAN HOMES
COMMUNITY ASSOCIATION
P.O. Box [illegible]
Wailuku, Hawaii 96793

November 5, 1982

The Native Hawaiians Study Commission
Department of the Interior Building
18th & C Sts., N.W. - Room [illegible]
Washington, D. C. 20240

Dear Madam Chairman:

Thank you for the opportunity to respond to your draft report.

We wish to submit the following comments and queries for the record:

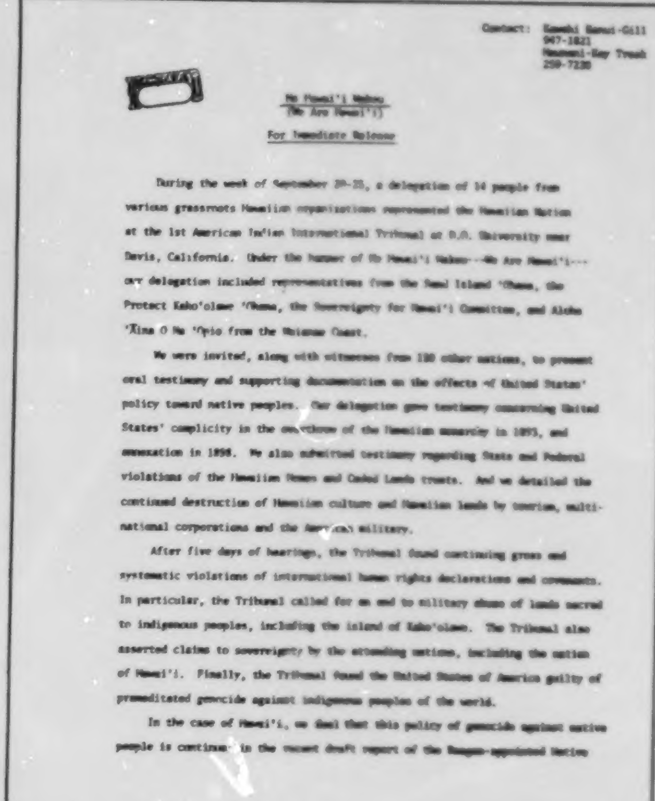
1. We feel the mandate of this Commission is in violation of a Congressional Act defining a "Native Hawaiian." The mandate of this commission is to "conduct a study of the culture, needs and concerns of the Native Hawaiians."
2. We feel that this report fails to emphasize the aid and abetting in the overthrow of a nation by the presence of the United States Military Forces.
3. For your mandate, our needs and concerns as beneficiaries as "Native Hawaiians" as defined in a Congressional Act leads us to believe a possible "breach of trust" exist relating to the Hawaiian Home Lands Act and the Hawaii Admissions Act.

We feel that the very purpose for the study is totally omitted.

Sincerely,

Clarence K. Kamai

CLARENCE K. KAMAI
President, Paukukalo
Hawaiian Homes Community Association



Contact: Kawehi Kanui-Gill
947-1821
Haunani-Kay Trask
259-7230

He Hawai'i Makou
(We Are Hawai'i)

For Immediate Release

During the week of September 20-25, a delegation of 14 people from various grassroots Hawaiian organizations represented the Hawaiian Nation at the 1st American Indian International Tribunal at D.Q. University near Davis, California. Under the banner of He Hawai'i Makou--We Are Hawai'i--our delegation included representatives from the Sand Island 'Ohana, the Protect Kaho'olawe 'Ohana, the Sovereignty for Hawai'i Committee, and Aloha 'Aina O Na 'Opio from the Waianae Coast.

We were invited, along with witnesses from 130 other nations, to present oral testimony and supporting documentation on the effects of United States' policy toward native peoples. Our delegation gave testimony concerning United States' complicity in the overthrow of the Hawaiian monarchy in 1893, and annexation in 1898. We also submitted testimony regarding State and Federal violations of the Hawaiian Homes and Ceded Lands trusts. And we detailed the continued destruction of Hawaiian culture and Hawaiian lands by tourism, multinational corporations and the American military.

After five days of hearings, the Tribunal found continuing gross and systematic violations of international human rights declarations and covenants. In particular, the Tribunal called for an end to military abuse of lands sacred to indigenous peoples, including the island of Kaho'olawe. The Tribunal also asserted claims to sovereignty by the attending nations, including the nation of Hawai'i. Finally, the Tribunal found the United States of America guilty of premeditated genocide against indigenous peoples of the world.

In the case of Hawai'i, we feel that this policy of genocide against native people is continued in the recent draft report of the Reagan-appointed Native

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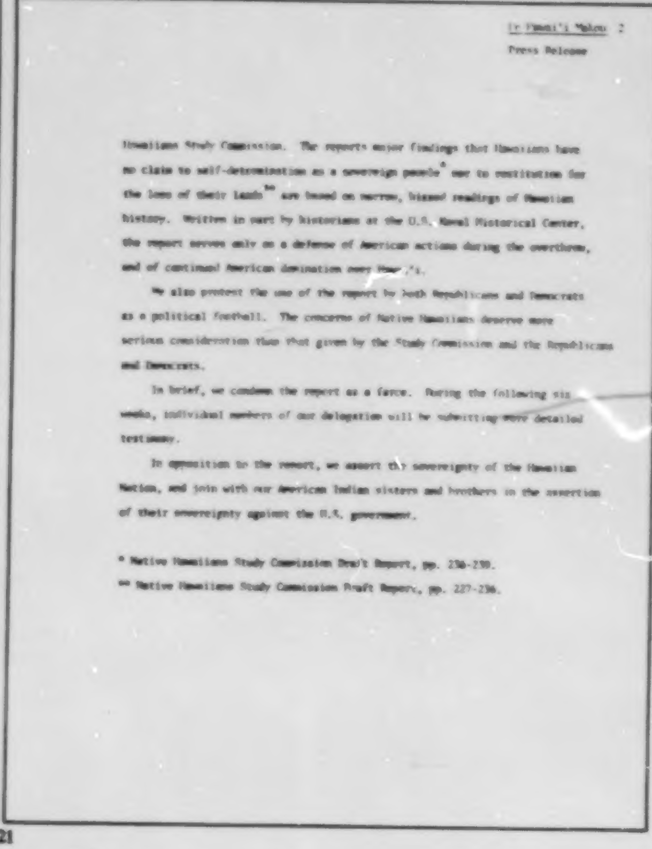

He Hawai'i Makou 2
Press Release

Hawaiians Study Commission. The reports major findings that Hawaiians have no claim to self-determination as a sovereign people[*] nor to restitution for the loss of their lands[**] are based on narrow, biased readings of Hawaiian history. Written in part by historians at the U.S. Naval Historical Center, the report serves only as a defense of American actions during the overthrow, and of continued American domination over Hawai'i.

We also protest the use of the report by both Republicans and Democrats as a political football. The concerns of Native Hawaiians deserve more serious consideration than that given by the Study Commission and the Republicans and Democrats.

In brief, we condemn the report as a farce. During the following six weeks, individual members of our delegation will be submitting more detailed testimony.

In opposition to the report, we assert the sovereignty of the Hawaiian Nation, and join with our American Indian sisters and brothers in the assertion of their sovereignty against the U.S. government.

[*] Native Hawaiians Study Commission Draft Report, pp. 236-239.

[**] Native Hawaiians Study Commission Draft Report, pp. 227-236.

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STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS

November 10, 1982

Rep. Kinau Kamali'i, Chairperson
Native Hawaiian Study Commission
Prince Kuhio Federal Building
300 Ala Moana Blvd., Suite 3121
Honolulu, Hawaii 96813

Dear Chairperson Kamali'i:

Aloha Kāua.

The undersigned individuals and organizations believe it is imperative that a six months' extension of the deadline for public comment on the draft report of the Native Hawaiian Study Commission be provided to enable carefully considered responses from our organizations and other concerned individuals.

Limited and delayed access by individuals and groups to the draft report and the absence of careful analysis by qualified individuals, groups and concerned Hawaiians on the authentication and verification of factual and research materials relevant to the draft report are two strong reasons for our request for the extension. In addition, two critical sections of the draft report--culture and religion--are not available at this time for public review and comment, thus rendering the report incomplete.

We recognize the timetable set by the Commission for the completion of the Final Report, and we realize the efforts expended by the Commission members on the draft report within the limited timeframe and budget. There are, however, serious omissions and questionable research methodology and errors to warrant our extreme concern and the need for detailed responses from experts based on primary source documents.

We are certain that the report, if adopted in its present form, will be seriously devoid of the complete "findings of fact" for appropriate Commission recommendations and for subsequent Congressional review and action impacting the Hawai'i people now and in the future.

We urge that the Study Commission not delay a just decision in granting a deadline extension. Mahalo for your immediate courtesy of a reply on this matter.

Me ke 'oia'i'o,

Joseph Kealoha

Joseph C. Kealoha, Jr.
Chairman of Adhoc on Reparations

JCK:sr
enc.

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Gard Kealoha
Council of Hawaiian Organizations

[illegible]
Native Hawaiian

Virginia [illegible]

native Hawaiian

Luwella (Kaniaupio) Leonard
54-168 Kawaiiouna St
Hauula, Hi 96717

Marie [illegible] -sec.
TEMPLE of LONO

Mary K Kaulana
Native Hawaiian.

Arlene H. Obrey
Hawaiian Civic Club of [illegible]

Raymond Kamaka
N. Hawaiian.

[illegible]

Clayton J. Palakiko
Native Hawaiian

Kalani [illegible]
Native Hawaiian

[illegible]

Marion C Peralta
Congress of Hawaiian People

3

Hui Hawaii Kakou

[illegible]
Hale Mohalu Chair

Joseph G. Kealoha
OHA - Trustee

Randy [illegible] Kalahiki Jr.

Native Hawaiian

[illegible] Pres.

John Agard, state president
The Congress of the Hawaiian People

[illegible]

Irene De Paul
The Congress of the Hawaiian People

[illegible]

Howard F. [illegible] Jr.
Kailua Hawaiian Civic Club Pres.

[illegible] Tamm, President

NOV 2 2 [illegible]

[illegible]

The Council of Hawaiian Organizations

November 19, 1982

Kinau Kamalii, Chair
Native Hawaiian Study Commission
P. O. Box 50247
Honolulu, Hawaii 96850

Dear Kinau,

We urge your utmost consideration in extending the deadline for the submission of public comment on the draft report of the Native Hawaiian Study Commission.

That you have already refused a similar request made by the Office of Hawaiian Affairs earlier puzzles us as access to the relatively small number of copies made available to the Hawai'i community is severely limited.

The process of verification and authentication of the facts takes patient scholarship and careful analysis as you well already know. Information provided to us by knowledgeable Hawaiians alerts us to the need for an extension of time.

We thank you for your hard work and for the leadership of our fellow Hawaiians who also serve on the commission.

Sincerely,

Gard Kealoha

Gard Kealoha
Corresponding Secretary

Hawaiian Businessmen's Association

November 17, 1982

The Honorable Kina'u Boyd Kamali'i, Chairperson,
and Members
Native Hawaiians Study Commission
Department of the Interior Building
18th & C Sts., N.W.-Room 6220
Washington, D.C. 20240

Ladies and Gentlemen:

While the Hawaiian Businessmen's Association appreciates the opportunity to comment on the Draft Report of your Commission dated September 23, 1982, we find that the short time period required for comment has not left us in a position of being able to comply.

We earnestly request that the deadline for the submittal of comments on the Draft Report beyond November 23, 1982.

We ask that you consider this request favorably.

Me ke aloha pumehana,

HBMA Committee

H. K. Bruce Keppeler, Co-Chairman

Allen W. Wooddell, Co-Chairman

POST OFFICE BOX [illegible] HONOLULU HAWAII [illegible]

LANGUAGE SECTION OF NATIVE HAWAIIANS STUDY COMMISSION REPORT
Larry Kimura

D R A F T

__NOTE:__ The text of Mr. Kimura's paper does not appear in this Appendix. It is reproduced, in its entirety, in the chapter of this Final Report, entitled, "Native Hawaiian Culture."

1

VI. Strengthening Hawaiian

History has shown that the economic fate, social status, and cultural integrity of the Hawaiian people has moved in direct proportion to the strength of the Hawaiian language. This is not a unique case. Throughout the world peoples who increase in prestige do so through their own languages. Japan which is today a world giant has a history similar to that of Hawai'i - long isolation within a very distinctive nature and kinship oriented society, contact with cognate cultures by sea, a strong dose of Western power politics in the nineteenth century - and an adaptive ability in the area of assimilating Western features within a native framework. ~~So~~ Unlike Hawai'i, however, Japan has never ~~[illegible]~~ suffered its schools, government, and businesses to be run by anyone not a part of the Japanese speaking community. Closer to home in the Pacific, the New Zealand Māori people have become a powerful force in their own nation and in New Zealand's relationships with the ~~[illegible]~~ Pacific as a whole through a movement ~~to~~ that emphasizes language not only in the traditional area but in Western areas as well. (Compare again Japan where not only Shinto and sumo is in Japanese but computer technology as well). Within the United States itself, the strongest Indian and Eskimo groups are those that maintain their native languages as primary languages of communication in traditional and modern areas, e.g., the Navahos and the Yup'ik Eskimos. Historically, the most inspiring case of language ~~now~~ playing a role in strengthening a people is the rise of Hebrew as a modern language through the efforts of the people of Israel.

Although for some people reading this section it may seem a novel idea to seriously strengthen Hawaiian as a language of daily use such an idea is not at all novel in the context of the world outside Hawai'i. It is in fact normal for a language to be promoted in its own indigenous area in many many parts of the world. In the Pacific, the French colony of Tahiti has a Tahitian language planning academy and there is a move back towards Tahitian medium schools. In the British Isles, Welsh is promoted ~~[illegible]~~ and there is even an all Welsh university. Switzerland promotes the language of its tiny Romansch population as well as three other indigenous languages French, German, and Italian each in its own area. Even totalitarian governments like the Soviet Union ~~encourage~~ the multitude of languages spoken there as primary ~~[illegible]~~ mediums in schools, universities, and government. In Polynesian, Hawaiian is the only case in which an indigenous medium school system has not been revitalized in recent years. Even Easter Island under the relatively ~~f~~ poor nation of Chile has reinstituted the indigenous language as a medium of instruction ~~[illegible]~~ for the indigenous people.

2

It is sometimes difficult for Americans to understand the importance of indigenous language promotion because most of ~~[illegible]~~ them descend from immigrants who voluntarily gave up their language and culture ~~as~~ in deciding to join America. Hawai'i is a different case. The largest ethnic group in the schools today is the indigenous group. ~~The~~ Other ~~[illegible]~~ major ethnic groups in the schools are descendants of immigrants who did not originally come to Hawai'i to make a new home but to make some money and then go back to their ~~original~~ countries of origin. Those who stayed did so for various reasons, ~~[illegible]~~ but their children who were born in Hawai'i ~~[illegible]~~ share more similarities with the native Hawaiian children of the same generation than ~~[illegible]~~ North Americans of that generation. There is therefore a closeness and a certain shared identity between all the major non-American originating ethnic groups in Hawai'i that traces back to a period of interaction through forms of the indigenous language and culture. This shared Hawaiian based [illegible]

~~[illegible]~~

~~There is sometimes a feeling expressed that reversing the present campaign to replace Hawaiian with English would have promoted injurious sentiments among Hawaiians. [illegible] What injurious sentiments that do exist among Hawaiians are due to persecution use of their language and political aspirations. In places where indigenous languages and cultures are promoted there is great stability as in Switzerland which has existed for centuries with four separate linguistic groups, and even American Samoa where the people express general contentment with American administration. [illegible] [illegible]~~

[illegible] will of the people [illegible]

The basic question ~~now~~ within the democratic ~~[illegible]~~ tradition should be do Hawaiians really want the Hawaiian language revived? If legislation is an indication of the will of the people, there is such a desire since there have been laws passed to promote the Hawaiian language since the early days of the legislature until today, as shown in Table 8 below. The fact that many of these laws have passed at times when the Hawaiian people did not dominate the electorate show that the desire to strengthen the Hawaiian language is a widespread local feature and not just limited to Hawaiians.

3

Table 8. Some Laws Relating to the Hawaiian Language Since the Time of The Organic Act Until Today

1900	command of either English or Hawaiian necessary to vote in the Territory	Organic Act Section 60
1901	all laws become legally binding only when published in both an English daily and a Hawaiian weekly	
1913 a)	law requiring the announcement of primaries in Hawaiian	
b)	law requiring announcements relative to the sale of government land to appear in Hawaiian	
c)	announcements relative to the distribution of Hawaiian Homes Land must be in Hawaiian	
d)	10,000 appropriated for the publication of a Hawaiian dictionary	
1919	Hawaiian shall be taught as a subject in all high schools and teachers' colleges	
1921	declaration that "Every language except the English and Hawaiian languages shall be considered a foreign language"	R. L. 1955 Sec. 167-20
1923	2,000 appropriated for the writing and publication of textbooks in Hawaiian	
1935	daily instruction of at least ten minutes in Hawaiian conversation or writing required in elementary schools serving Hawaiian Homes children	
1945	law requiring that the names of the candidates be printed with the Hawaiian or English equivalent, if such there be, if requested (25)	R. L. 1945 Chap. 6 Sec. 203
1957	20,000 for the publication of a Hawaiian dictionary (This is the initial funding for the Pūku'i-Elbert Dictionary)	
1959	25,000 for the purpose of perpetuation of the Hawaiian language, art, and culture. (This established the University of Hawai'i Committee for the Preservation and Study of Hawaiian Language, Art, and Culture)	
1978 a)	"English and Hawaiian shall be the official languages of Hawaii except that Hawaiian shall be required for public acts and transactions only as provided by law."	Section 4 Article XV State Constitution

4

Table 8 continued

1978 b)	"The State shall promote the study of Hawaiian culture, history and language. The State shall provide for a Hawaiian education program consisting of language culture and history in the public schools. The use of community expertise shall be encouraged as a suitable and essential means in furthering the Hawaiian educational program."	Section 4 Article X State Constitution
1979	"Street names selected (in the city of Honolulu) shall consist of Hawaiian names, words, or phrases and shall be selected with a view to the appropriateness of the name to historic, cultural, scenic and topographical features of the area."	City and County of Honolulu Bill No. 46, Ordinance No. 79-54, amending the Revised Code Ordinances of Honolulu 1969

Further evidence of the desire among the population that Hawaiian survive is enrollments in Hawaiian language classes. The study of Hawaiian was initiated at the University of Hawai'i (at Mānoa) in 1922. It has always had a good enrollment for a language at the University. At the peak of the "baby boom" and the beginning of the latest of several Hawaiian cultural movements in the early 1970's the University enrollment of Hawaiian was over three hundred, but there were just over two hundred even in 1939 at a period when there didn't appear to be any particular concerted push for Hawaiian language in the community. At the Hilo campus of the University, Hawaiian has a greater enrollment than the two European languages taught there and this is without the stimulus of a language requirement. Hawaiian is also a popular subject in private colleges and community colleges that offer it. When offered Hawaiian is also ~~[illegible]~~ well enrolled as a course ~~[illegible]~~ for high school students in both private high schools (approximately three out of about thirteen well known private high schools in Hawai'i offered Hawaiian in 1982) and in public high schools (in 1979, 17 out of 39 public high schools had some form of Hawaiian language course). There are night school classes, University extension classes, YWCA classes church classes, and other community based Hawaiian language classes in Hawai'i. In response to changes in the State Constitution, the Department of Education has initiated a Hawaiian Studies Program to incorporate Hawaiian language, culture and history into the cirriculum with the goal of reaching all students in public schools in Hawai'i. At present (1983) this program is aimed primarily at elementary classes and reaches ~~[illegible]~~ fluent (Hawaiian) children. These classes are strongly supported by parents of all racial extraction ~~although Hawaiians are the largest ethnic group in terms of students in the Department of Education at the present time.~~

V

There is clear evidence then that the people of Hawai'i want the Hawaiian language to survive and florish and they feel that the language would be valuable for them and their children to be able to speak ~~[illegible]~~ The language clearly

5

is gaining status in the community and this trend looks ~~to~~ continue since what will most of the young people who can speak the language with any semblance of fluency are college educated.

With all the popular support behind the Hawaiian language, one would think that great progress would be made in the area of developing very fluent speakers. This is not the case and the reason for it is that those ultimately in control, that is, the administrators of the laws and programs seldom hold a serious interest in Hawaiian language and culture themselves, and see in it no real value for today's world except possibly to keep slow students in school. This attitude is a continuation of the views held by the English speaking community in the nineteenth century and is kept alive today among administrators who are often from North America or if not raised there have a close affiliation with ideas eminating from there. This leads one to believe that this philosophy is part of the general American world view regarding nonWestern cultures especially those of Pacific Islanders. (26) The result has been resistance to Hawaiian language and culture programs by administrators in schools from the University ~~[illegible]~~ (whose early administration felt that Hawaiian lacked a literature and should thus not be taught and whose present faculty still harbor feelings such as students will be deprived if they study Hawaiian literature instead of English literature), to the Kamehameha Schools (whose counselors discourage students of academic ability from taking Hawaiian), and to the Department of Education (which treats high school Hawaiian language instruction as something of an afterthough in the context of foreign language teaching).

Full compliance with provisions for the promotion of Hawaiian have never been met in Hawai'i. In cases where programs have been implemented administrative philosophy determines the type of program that results. Interest in obtaining quality faculty is generally low. In the Department of Education it used to be common practice to assign the greenest teacher from outside Hawai'i a course called "Hawaiiana" taught to the problem students in which emphasis was put on things such as coconut crafts, singing songs, and the "grass shack". Pricipals in the present Department of ~~[illegible]~~ Education elementary school Hawaiian language and culture program have hired people with no ability to speak the Hawaiian language for positions calling for native speakers of Hawaiian! At the University of Hawai'i at Mānoa, hiring for the Hawaiian language program is controlled by a group of faculty members teaching Southeast Asian languages whose lack of concern for the quality of the Hawaiian language program that supports their department has had less than positive results on the primary source of Hawaiian language teachers.

6

Perhaps the most maddening feature resulting from ~~the~~ administrative attitudes toward the Hawaiian language and culture is in the types of programs and texts which they generally encourage and approve. First, these programs tend to have very little academic rigor. This is in accordance with a belief that there is not much to the Hawaiian language and culture and also in accordance with a lack of concern that students actually become fluent in the language. Secondly, texts and programs tend to emphasize the ancient aspects of the culture that have no place in the students daily lives. If English classes emphasized traditional American culture like Hawaiian classes emphasize precontact clothing, the names of extinct birds, and the different types of kāhuna, most American students would only know how to talk about ~~[illegible]~~ living in a log cabin, shooting buffalo, and the parts of a coonskin cap.

The heavy emphasis on ancient culture is consistent with the EuroAmerican view of the administrators that sees Hawaiian culture as something from the past and "paradise lost" in the whole tradition of Walden Pond and Rousseau, all non Hawaiian concepts. One doesn't see enough stress on features of contemporary local life, continuations of features common to both modern and ancient Hawaiians, or even features of ancient Hawaiian culture that Hawaiian speakers themselves have noted as important. In language classes one does not usually learn words like hauka'e, [illegible], [illegible], or 'e'epa that are commonly used in strong Hawaiian families and which show a traditional interest in cleanliness, neatness, and attitudes toward the supernatural. More effort should also be placed on reinforcing Hawaiian words common to all local ethnic groups such as [illegible], [illegible], [illegible], and [illegible]. These words too have their lesson in reinforcing the role of Hawaiian in the joining of the various races to form a single community.

Overly heavy emphasis on ancient Hawai'i can actually belittle the culture because without a strong background in contemporary Hawaiian culture and language ancient Hawai'i is very difficult to understand. It deserves to be reserved in part for later and more advanced study as Beowulf is in English classes. The emphasis on ancient Hawai'i using a superficial and English based view in local schools has actually done more harm than good. Many academically talented Hawaiian students have been turned away from serious study of Hawaiian culture because they believe that it really is as simple as it is presented. Others develop a romantic attachment to the ~~[illegible]~~ Europeanized ancient Hawai'i as described in the texts and refuse to recognize the humanness of the Hawaiian tradition.

7

Perhaps the most telling feature of current Hawaiian language and culture programs is how they have been applied with the tiny population of native Hawaiian speaking children eminating from Ni'ihau. These children are not serviced by any program encouraging the learning of Hawaiian. Not even the widespread elementary program has been offered to them when they are the ones who would stand the most to gain from learning modern spelling and reinforcement of their language in school. Instead the Department of Education has chosen to add further pressure to the already heavy pressure of use of the English language as a medium of education required of the Ni'ihau school. Ni'ihau children resident on Kaua'i instead of being encouraged to share their knowledge of Hawaiian language with Kaua'i children during Hawaiian language lessons, are taken to classes designed to move them completely into English. Even Ni'ihau students attending the Kamehameha Schools have been told not to enroll in Hawaiian language classes where they had hoped to learn [illegible] grammar, reading, and writing of their native language for the first time. If administrators were really serious about the Hawaiian language, the first priority should be to strengthen the native speaker community.

One feature is common to all situations in which language is used to strengthen a people, that is the use of the language as a primary means of communication in daily non-traditional as well as traditional areas. Hawaiian will never be able to help its people if there is no assertion of its primary place in the people's modern lives. In order for the language to be primary in today's world, modern vocabulary has to be collected, standardized, and dispersed. Academically challenging texts written from a contemporary local Hawaiian viewpoint must be written. The existing Hawaiian language media (printed and radio) needs to be supported and Television needs to be given a role as a Hawaiian language medium.

Essential in any serious strengthening of the Hawaiian language is a central language planning body, such as exists in other areas, in the Pacific Basin (e.g., Indonesia, the Phillipines, Malaysia, Tahiti, etc.) To be effective, this body must practice what it preaches (in contrast to most present programs), that is all members of this body shall be fluent in Hawaiian and use it exclusively in all meetings and records of the group as is the policy in other language planning bodies. Its purpose should be to collect, the spoken and written Hawaiian language from all sources and from it establish and disseminate standards of its usage, be a source of new vocabulary relating to the modern and future world, and be a source for Hawaiian medium materials relating first to Hawai'i and then to the world at large. A proposal for

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8

Why such a body termed the Hale Kuamo'o was presented in testemony to the Hawaiian Study Commission in its visit to Honolulu and is attached here as appendix IV.

The funding of language related projects is not uncommon for the federal government. The Defense Department spends considerable sums to encourage the study of foreign languages. Federal grants in conjunction with other sources maintain the Alaskan Native Language Center in Fairbanks with a 1980 staff of 11. The University of Hawai'i itself has been involved in a program with considerable federal support to assist Micronesian languages in the creation of dictionaries, grammars, readers, standardized orthographies, and indigenous medium schools. Why is there no similar program for Hawaiian!?!

Besides a language planning body, if the language is to truly grow and prosper it will be necessary to reestablish Hawaiian medium schools according to the actual demand of parents. It is the English medium school law enforced by the Republic, Territory, and State until 1965 that had the most detrimental ~~greatest~~ effect on Hawaiian as a primary language. The use of Hawaiian as the medium of instruction would not preclude the learning of English or any foreing language as a subject of study in the schools.

Since there is a law requiring State promotion of the Hawaiian language, and since the law preventing Hawaiian medium schools was struck in 1965, and since there are also considerable materials for teaching through the medium of Hawaiian even beyond the secondary school level from the monarchial period that could serve as initial ~~basis~~ of texts, and since there are qualified certified teachers who are fluent in Hawaiian, it would be quite feasible for the State to set up a Hawaiian elementary school where parent demand is strongest. There is indeed precedent in public immersion schools taught through the medium of foreign languages in other states, states where the promotion of such languages is not required by law as the promotion of Hawaiian is required here. There is also an indigenous language medium school already in the United States on the Navajo Reservation, that is known precedent for a Hawaiian Language School.

The third fundamental need in revitalizing Hawaiian is to reintroduce the language into those many Hawaiian families were it has been lost. A program of immersing preschool children in the language is a [illegible] way to reintroduce the language into the family and stimulate learning among older family members. This method has been proved successful in Europe in programs to revitalize Breton and is being applied with exciting results in New Zealand in the revitalizing of the Polynesian Māori language. Such a program is a natural within the kinship oriented Hawaiian base culture and a great fondness for babies so evident among Hawaiians.

9

The establishment of a Hawaiian language planning body, a Hawaiian medium school, and Hawaiian language day care centers could start a reversal in the false image of Hawaiian and its associated culture as being unsuitable as a primary vehicle for the world of today and tomorrow. Revitalizing the language is certainly the only means by which modern Hawaiians can have any meaningful life in terms of traditional culture. The concerted effort that such an undertaking would involve would certainly reinforce Hawaiian values of group activity which could serve the people well in areas outside the revival of the traditional language. The theory proposed over one hundred years ago that replacing Hawaiian with English would benefit the Hawaiians has gotten a little stale and has shown more negatives than positive results. Let's give traditional Hawaiian [illegible]!

I ka 'ōlelo nō ke ola, i ka 'ōlelo nō ka make.

With language will rest life and death.

1

VII. Legal Aspects

What place can one find for the Hawaiian language in discussions of legal aspects of contemporary Hawaiian problems. First there is the simple case of duely legislated laws dealing with the Hawaiian language not being enforced. There may be grounds for suits claiming deliberate noncompliance with the laws.

Second, ther may be grounds for suits in cases where laws promoting the Hawaiian language were implemented but in such a fashion as to negate the intended purpose of the laws.

Third, there is the matter of the relatively ~~low priority~~ given Hawaiian language projects in spite of laws calling for promotion of the language.

Fourth, there is the matter of the policy requiring only English medium schools, initiated by the Republic and continued by the Territory and State until 1965 by statute, and continued unofficially since. This is the primary reason for the death of the Hawaiian language as a native language with a renewable population since approximately 1920 on all islands but Ni'ihau. It is also the policy that threatens any serious move to revitalize Hawaiian as a first language today. If the extermination of the Hawaiian language is a legally claimable wrong in court, the extermination of the language can be attributed to the policies of the United States.

Fifth, there is the matter of the loss of the ability to fully enjoy, participate in, develop, and benefit intellectually from Hawaiian culture due to the forced loss of the language

Sixth, there is the matter of handicaps resulting from the loss of the Hawaiian language such as the inability to read Hawaiian deeds to family property, the inability to function in Hawaiian church leadership, etc. which may be contestable.

Seventh, ther is the matter of the psychological damage caused by loss of contact with a Hawaiian language perspective of ones self and the promulgation of damaging philosophies regarding things Hawaiian conveyed in English in the school system and elsewhere.

A person more familiar with the legal profession may be able to come up with other contestable claims.

Since reparations for the overthrow of the Hawaiian Kingdom has been a major topic of discussion in meetings of the Hawaiians Study Commission and since non Hawaiian speakers have asked if the language has any connection to reparations, and also since the primary source of the Hawaiian language lies within the period previous to 1893, it is appropriate that some comment on reparations be made here. The vast majority of documents written by Hawaiians relating to the overthrow of the Hawaiian Kingdom and the American Annexation are written in Hawaiian. The few Hawaiians born citizens of the Hawaiian Kingdom living today are Hawaiian speakers, as are the slightly larger group born during the Republic before annexation. The strongest opinion that one gets in reading these documents and speaking with these people is that they believed then and still believe that the Hawaiian Kingdom should be restored in full sovereignty. The overall opinion is that to receive money or any other form of compensation ~~[illegible]~~ in return for that sovereignty of their country is unacceptable. Even their voting patterns confirm this interpretation with the election of the counter revolutionary Robert Wilcox ~~in~~ of the Home Rule Party in the first election of the Territory and even the rejection of Statehood by Ni'ihau in 1959. We cannot, therefore, in good conscience, state that Hawaiian speakers, before or even those living today, would support anything other than return of their country's sovereignty. Although this may seem rather harsh, some Americans probably would feel the same way if their country was taken over by some other nation. This is not to state that there is no interest in compensation for wrongs that have occurred through American government actions. There have been many compensatable wrongs committed against the Hawaiian people that could be resolved by payments other than the question of money payment for the "mana" of the Hawai'i.

For Hawaiians who consider themselves Americans there is the great privilege of American citizenship, a privilege for which others have given their lives. To accept money as confirmation of this citizenship would be as unthinkable for a person who ~~was~~ truly valued his American citizenship as receiving money for his Hawaiian nation is for a person ~~so~~ loyal to the Hawaiian [illegible]

No matter where one's loyalties lie, it is clear that the United States government in claiming itsefl to be the reightful sovereign power over Hawai'i from 1900 until 1983 is accepting sole responsibility for that which is indigenous to Hawai'i. This claim of responsibility requires that the status of those things indigenous to Hawai'i be periodicly examined ~~[illegible]~~ as is the case now and decisions be made about past, present, and furtue directions. It is the opinion of the writers of the language report that the past and present directions within their area of coverage are essentially the same and have a negative impact on the language, people, and culture of Hawai'i. It is also the opinion of the writers of the language report that a change in direction can only be accomplished by reestablishing a belief in the validity ~~and~~ of Hawaiian as a first and dominant language for Hawaiians and the pursuit of that goal.

This report has been produced with the sincere hope that a reversal in language policy in Hawai'i can be initiated with federal government help and stimulous and we recommend three basic proposals as having the most merit and the best chance of success 1. the establishment of a Hawaiian language planning body 2. the establishment of an initial Hawaiian medium school, and 3. the establishment of Hawaiian language immersion day care centers/preschools. We believe that these three programs can be run simultaneously and that they will strengthen ~~and~~ each other. Besides these three main ~~goals~~ proposals, we believe that the federal government can and should lend its assistance in other ~~[illegible]~~ ways that will help the Hawaiian people regain control of their ancestral language which is so important in its broader implications. It is our contention that strengthening Hawaiian is the only way that any meaningful maintainance of traditional Hawaiian aesthetic culture ~~can~~ occur. We also beleive that strengthening Hawaiian can serve as a means to increase the ~~[illegible]~~ the success of Hawaiians ~~[illegible]~~ outside the boundaries of traditional Hawaiian culture, ~~[illegible]~~ for there is an old saying I ka 'ōlelo nō ke ola; i ka 'ōlelo nō ka make. "Language is the source of life and death."

Section VI.

(24) Table 8 is taken from information found in various printed sources rather than the result of primary research. Further research would be appropriate in the area of laws appropriate in the area of Hawaiian language.

(25) There is a case decided in the Hawai'i Supreme Court of 1892 in which a Henry Waterhouse contested his loss of an election to the House of Nobles because his name alone among those names of foreign origin had not been rendered in its common Hawaiian form as known by a large portion of the voting population. He lost the case because there was no law requiring two names on ballots at the time, although it was customary practice.

(26) In support of the theory that it is an American cultural trait to view Hawaiians and other Pacific Islanders in a gross characture of their

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26 cont.

precontact state. Europeans are often much more seriously interested in learning authentic Hawaiian culture than haole people both those from North America and those from Hawai'i.

(27) There are television programs in Hawai'i in Japanese, Filipino languages, Korean, Chinese, English, Samoan, and even Tongan, but nothing in Hawaiian. State supported educational television in Hawai'i is strongly oriented toward the minority Standard English speaking ethnic group. Similarly, the recently established public radio station in Hawai'i has a primarily classical Euro-American format. The commercial stations are also primarily Euro-American oriented. ~~and~~ It is ~~[illegible]~~ disturbing to see the administrators of the public media ignoring Hawaiian ~~when~~ the language is required for special promotion by the State. Even without the special requirements for promotion and the obvious fact that no other place is going to have Hawaiian language media, the number of native speakers and listeners, along with the large number of students of the Hawaiian language in Hawai'i would justify attention from the public media. This attention has yet to appear.

Audio Tape and Transcription With English Translations of Hawaiian Language Items.

1 Oli by Kuluwaimaka: Nā Leo Hawai'i Kahiko, audio recording Bishop Museum, 1981.

2 Kaka'e Kaleiheana with Larry Kimura: Ka Leo Hawai'i, HV 24.94B, 6.13.75.

3 Albert Like with Larry Kimura: Ka Leo Hawai'i, HV24.133A, 10.24.76.

4 Mary Malo with Larry Kimura: Ka Leo Hawai'i, HV24.65A, 5.5.74.

5 Kalehua Kaleikoa with Larry Kimura: Ka Leo Hawai'i, HV24.17, 11.28.72.

6 Kaulana Nā Pua song, Peter 'Āhia, record album, HW48.

The listed items above are maintained at the University of Hawai'i, Mānoa language lab as referenced by their respective catalogue numbers.

Item 1

Item 2

Kaka'e Kaleiheana: Reaction to the Overthrow

Larry Kimura (LK) - No ka mea i kēlā wā, ua o'o nō 'oe 'eā?
Because you were grown then, weren't you?

Kaka'e Kaleiheana (KK) - 'Ae. Ua o'o. Ua o'o wau. Ua kanaka makua
Yes. I was grown. I was an adult.

makua maoli. Ua loa'a ka'u kaikamahine. Ua hānau wau i ka'u
I already had my daughter. I had given birth to my oldest

hiapo. No ka mea, i nā Pō'alima a pau, mālama mākou he leo pule
child. Because it was every Friday that we held prayer services

nona, no ke Ali'iwahine, i kai o Kawa. Ma hope o Kawa.
for her, for the Queen (Lili'uokalani), below Kawa. That was down Kawa way.

LK - 'Ō. 'O kēia hale kawa a kākou i kēia manawa?
Oh. Where our prison is now situated?

KK - 'Ē. I ka wā kahiko. 'O Iwilei.
Yes. In the old days. At Iwilei area.

LK - 'O Iwilei.
Oh, at Iwilei.

KK - 'O kēlā alanui e hele ai i kai. Ai'a.
That road that goes seaward, that's where.

LK - A he halepule ko laila?
Was there a church there?

KK - A ma hope o laila he hale hālāwai.
There was a meeting house back in there.

LK - A. He hale hālāwai.
Oh, a meeting house.

KK - No ka ho'omana Kalawina. 'O kēia kanaka 'o Dan Kā'eo.
It belonged to the Protestant Church. You know this Dan Kā'eo.

No waho o Waikīkī kēlā 'ohana. Kā'eo family. A, nāna. 'O ia
That family is from Waikīkī. That is the Kā'eo family. Well

ke kahu. Nāna e mālama ka hālāwai. 'O ko'u pāpā, ko'u kupuna
he was in charge. He was the minister. He would conduct the

Item 2

wahine. Nui. 'O kekahi po'e o uka o Kalihi. Hele mai mākou.
meetings. There was my father, my grandmother and oh so many

'O ko uka o Pālama. Hui a hele i laila. A mālama i ka hālāwai.
others. There were some people from Kalihi. We would go. Also

Ho'okē 'ai ihola mākou he mau lā. A i kēlā lā, a ho'oku'u.
people from above of Pālama. We would meet and all go to the meeting

A hui mākou. A mālama i ka hālāwai. Hā'awi kumuhana i kēlā i
house to hold our meetings. We would fast for several days and

kēia. No ka mālama 'ana i kēia i ke ola o ka Mō'īwahine a hiki
on a designated day we ended our fasting then we would meet to

i kona wā e puka mai ai, no ka mea, 'a'ole maopopo he aha lā
conduct our services. Various testimonies would be presented.

ka manawa e puka mai ai, no ka mea, ua ho'opa'ahao 'ia 'o ia
This was all presented in concern for the life of the Queen

he pa'ahao. A noho 'o ia i lalo o laila.
until she was to be released because we did not have any idea when that would be since she was being held as a prisoner.

LK - Eia na'e ua kū'ē nō kēia kāhuli 'ana o ke aupuni 'eā?
But this overthrow of the kingdom was opposed?

KK - 'Ae.
Yes.

LK - Kū'ē 'ia e ka po'e Hawai'i.
It was opposed by the Hawaiian people.

KK - 'Ē.
Yes.

LK - A ma kekahi 'ao'ao 'o kēia po'e koa...
And on the other side were the soldiers...

KK - 'Ae.
Yes.

LK - Po'e ..po'e Haole nō paha.
Which were caucasians.

KK - 'Ē. Po'e Haole nō.
Yes. Caucasian people.

LK - Ua po'o..ua maopopo nō iā 'oe...
Do you know...

KK - 'O ka..'o ka..ka pelekikena o 'Amelika i kēlā manawa 'o Mckinley.
The President of America then was Mckinley.

'O Mckinley. 'O ia ka pelekikena o 'Amelika i kēlā manawa.
Mckinley was the President of America then.

No laila, 'o kona po'e kai 'ōlelo aku e kōkua mai iā lākou e lawe
So it was his people who requested assistance in taking the

i ke ea o ka 'āina o Hawai'i mai ho'i ma lalo o 'Amelika.
sovereignty of the nation of Hawai'i to be controlled by America.

LK - Pehea ka no'ono'o, ka mana'o o ka po'e Hawai'i o ia manawa e ola
What was the thinking and the feeling of the Hawaiian people

ana, i kou..kou wā, i kēia manawa o ka hopu 'ana o ke Ali'i.?
living then during your time when the Queen was seized?

KK - 'Ae.
Yes.

LK - Pehea ko 'oukou no'ono'o, ko 'oukou...
What did you folks think, your...

KK - Kaumaha nō. Nui ka po'e kaumaha. Nui ka po'e i kaumaha. A 'o
Very sad. Many people were very sad. So many people felt

ia ka wā i huki 'ia ai ka hae Hawai'i. E like pū me ka huki 'ana
oppressed. That was also when the Hawaiian flag was pulled

ia o ka hae Hawai'i i lalo, nui ka po'e i uē. Kulu ko lākou maka
down. Even then when the Hawaiian flag was taken down, so many

waimaka. No ka mea, 'o kēlā hae Hawaii o kākou he hae kēlā
people wept. Their tears flowed. For one thing that flag of

mai...mai Pelekāne mai. 'O ka ho'iho'i 'ia 'ana mai o ko kākou
ours is from England. It is from the restoration of our

kū'oko'a. Ma mua, kākou ma lalo o Pelekāne. Ma hope, ho'iho'i
sovereignty. You see, before we were under England. Later,

mai 'o Pelekāne i ko kākou kū'oko'a, no ka mea, 'o ko kākou po'e
England restored our sovereignty because our

ali'i a me ke ali'i o loko o Pelekāne, launa lākou. Launa
nobility and the nobility of England got along well together.

lākou. Hele ko kākou po'e ali'i i laila a make i laila.
They shared a good relationship. Our nobility even went there and died there.

LK - 'Ae. 'O kekahi. 'O Liholiho mā. 'Ae.
Yes. Some of them. That was Liholiho and his wife.

KK - A pēlā lākou i aloha ai a ho'iho'i mai nō lākou na kākou mō e
That is how they were compassionate and they returned to us

lula mō i ko kākou noho ali'i 'ana,...noho 'āina 'ana. A
the right of governing ourselves in living the way of our kingdom

ho'iho'i 'ia a hā'awi 'ia mai kēlā hae iā kākou.
nation. Then that flag was given to us.

LK - Nui nō ke aloha.
I feel so much sorrow and compassion.

KK - 'Ē. Nui nō nā mea walohia ke no'ono'o a'e a pāha nō me ke aloha.
Yes. It is very touching and pathetic when you think about it and

A ma kekahi no'ono'o 'ana na ke Akua i kia'i. Inā 'a'ole ke Akua..
I am so filled with pathos. In one way of thinking, God watched

Inā kākou he mālama, lōkahi , mālama nō i kona mau kānāwai, ko'u
over us. If it wasn't for God...If we abide, be united and care

mana'o, hiki mai nō ka lā no kā kākou po'e mamo aku o kēia manawa.
for his laws, my feeling is a day will come for our descendants of

Pehea aku ana lā? Ke 'ike nei kākou i ka pa'akikī i kēia manawa.
this time. I do wonder though. We are witnessing how hard it is.

'Oi loa aku paha ma hope. Akā, 'o ka mālama i ke Akua 'o ia
Perhaps it will be harder as time goes on. But abiding in God,

nō ka mea nui. 'O ko'u no'ono'o kēlā. 'O ka luna'ikehala kēlā
that is the main thing. That is my thinking. That is what

i loa'a ia'u.
my conscience tells me.

End of Item 2

Albert Like: Patriotic League

Albert Like (AL) - 'Ae. A ua hānau ko'u makua kāne i Hilo.
Yes. My father was born in Hilo.

A i ka makahiki 1897, holo mai 'o ia i Honolulu me kona 'anakē
In the year 1897 he sailed to Honolulu with his aunt,

'o ia ho'i me Mrs. Nāwahī.
that is Mrs. Nāwahī.

Larry Kimura(LK) - 'Ae.
Yes

AL - A mai ia manawa mai lilo 'o ia i luna ho'oponopono no ka pepa
And from that time forward he became the editor for the newspaper

Ke Aloha 'Āina. 'O Joseph Nāwahī 'o ia kekahi o nā kānaka i
Ke Aloha 'Āina (The Patriot). Joseph Nāwahī was one of those

kaulana i ka wā o ka...o ka Mō'ī Wahine Lili'uokalani e noho
who was well known during the time Queen Lili'uokalani reigned

ali'i ana. A 'o lākou ka po'e i kū'ē loa i kēia ho'okahuli 'ia
as monarch. They (Nāwahī and company) strongly opposed the over-

'ana o ka...aupuni mō'ī. Ma muli o kēlā ua ho'opa'ahao 'ia 'o
throw of the Hawaiian kingdom. Because of this opposition, Joseph

Joseph Nāwahī a me Edwina Puhi ma muli o ko lāua kū'ē nui 'ana
Nāwahī was imprisoned along with Edwin Booth because they vigorously

i kēia aupuni kūikawā i kapa 'ia he Provincial Government, Pīkī.
opposed the new government that was called the Provisional Government, P.G..

LK - 'Ae.
Yes.

AL - A ma muli o kona aloha loa, 'o Nāwahī, i kēia Mō'ī Wahine, ua
Because Nāwahī had great love and respect for the Queen,

kūkulu lākou i kekahi 'ahahui i kapa 'ia Ke Aloha 'Āina...Aloha
he and others established an association named the Aloha 'Āina

AL - 'Āina. A 'o kēia Aloha 'Āina, 'o lākou ka po'e i ho'opohuli 'ia
(Patriotic League). And this Aloha 'Āina objected to the

ka mana o kēia Aupuni Kūikawā i kapa 'ia ka Pīkī. A ma muli o
control of the Provisional Government known as the P.G.. And

kēlā ua kūpa'a kēia mau po'e e ho'okumu i kēia 'ahahui Aloha
as a result these people were resolute to organize the Aloha

'Āina. Ma...ma hope o kona ho'oku'u 'ia 'ana, 'o Joseph Nāwahī,
'Āina. After Joseph Nāwahī was released from prison,

ua kūkulu 'o ia, or ua ho'okumu 'o ia i kēia nūpepa 'o Ke Aloha
he set up the newspaper called Ke Aloha 'Āina

'Āina i nūpepa, he lama...i kapa 'ia he kukui lamalama no ka
which was referred to as the bright torch of

po'e Hawai'i lāhui.
the Hawaiian nation.

LK - 'Ae.
Yes.

AL - A i kēia manawa, 'o ia ho'i, 'o ka Hui Aloha, i kapa 'ia, i ko'u
And now concerning this organization called Aloha, I feel

mana'o 'o ka inoa pono no kēia 'ahahui 'o ia nō Ke Aloha 'Āina
the more fitting name should be the Aloha 'Āina

ka mea ua ho'okumu 'ia kēia...kēia 'ahahui no ke kāko'o kōkua
because this association was created to support the

'ana i nā lāhui Hawai'i. A no laila i ka makahiki 1897 ua lilo
Hawaiian nation. So in 1897 my father became

ko'u makua kāne i luna ho'oponopono no ka nūpepa 'o Ke Aloha
the editor for the Aloha 'Āina newspaper

'Āina a hiki i kona hala 'ana, i kona make 'ana.
up until he died.

End of Item 3

Item 4

Mary Malo: A Visit by Queen Lili'uokalani

Larry Kimura (LK) - Hiki nō iā 'oe ke wehewehe li'ili'i mai e
Can you give a brief account about the

pili ana i kēia kipa 'ana o ke Ali'iwahine?
Queen's (Lili'uokalani) visit?

Mary Malo (MM) - 'Ae. Hiki ia'u. E ho'omaka wau. I ho'u mau
Yes. I can. I will begin. I was about

makahiki i kēlā manawa me kahi o ka 'umikūmālua makahiki.
twelve years old then and because

A, no ka mea, 'o George Cox,...Oscar Cox, e kala mai, Oscar
George Cox,...Oscar Cox, pardon me, Oscar Cox

Cox 'o ia ka sheriff, ka sheriff mua o Hawai'i nei. A,
was the sheriff, Hawai'i's first sheriff. Well,

no ka mea 'o ia ka mea nāna e hana i kēia hana. Ho'omaka
he was the one who organized the activity of

'o ia e hana hukilau. Ho'omaka 'o ia e hukilau. 'O nā
hukilau (A method of fishing involving many people. In brief, it requires that the fish be collected to an area by scaring them with leaves attached to fathoms and fathoms of rope whereupon a long net is used to encircle the fish and the fish is hauled up right to shore).

po'e a pau hele i ... 'A'ole i Waimea, but, ma lalo mai, ma
Well all the people went..not to Waimea but further

mua o..o..e hele mai ana i lalo nei o Hale'iwa mā. Ho'omaka
over. It was as you come to Hale'iwa and those places.

'o ia. Ke ho'omaka e kāhea, nui 'ino ka po'e ke hele.
He organized the event. When he called to the people, so

He nui wa'apā e hele ai. A hana 'ia. Ma mua na'e o kēlā
many would go. So many canoes were launched. And thus the

mākou kamali'i, 'o ia kā mākou hana i kēlā..i ke kaula.
fishing was done. However, before this occurred, we younger

Ho'okomo i ka lā'ī ma waena o ke kaula. A ma kahi o ka ho'okahi
children would prepare the rope. We put the ti leaves into

MM - kapua'i ka mamao o kekahi lau mai kekahi lau aku. Hana
the rope about one foot apart from each other. We did

mākou. 'Ō! Nui 'Iā, nui 'Iā. Nui lōkihi kēia kaula. A
that. Boy! This rope was many, many yards long.

mākaukau e hiki i ka lā hā'awi 'ia ke Ali'iwahine e hele i lalo
When it was ready and a day had been selected, the Queen was

o laila. I kēia hana 'ana, ke'a...hana 'ia ka halepe'a, po'e
invited to come to the area. In preparation, several canopies

halepe'a hō i luna. Ho'omākaukau no ka lā 'apōpō e hiki mai ai
would be constructed in anticipation for the arrival of the

ke Ali'iwahine. A i ke ahiahi pō'ole'ole, hele nā po'e kāne
Queen on the following day. And in the evening prior, the men

e lamalama. Kele lawai'a i'a. Loa'a ka i'a a ho'omākaukau.
would go torch fishing (Fishing by torch light at night, partially blinding some and locating those who lay carelessly asleep so they could be easily netted or speared.) They would go and catch

A i ka ao 'ana a'e, hō'ea maila ke Ali'iwahine. Loa'a kona
fish and so the fish was caught and prepared. On the next

wahi e noho ai. 'O ka po'e wāhine nō ho'i, nā po'e kāne hele
day the Queen would come. She would have her special place to

akula. Ho'omākaukau e hukilau. A, nā po'e wāhine a kāne me
sit. The men and women would prepare for the hukilau fishing.

kekahi mau kāne, noho kā lākou hana, pūlehu i kēia i'a o ka loa'a
Some women and men would stay back and their job was to broil

'ana i ka pō. Ho'omākaukau. Pūlehu a pau. A 'o ka po'e wāhine
the fish caught from the night before over hot coals. That

kāne, wāhine nō ho'i, ho'omākaukau i ka mea inu. A 'o ka
was taken cared of. And other men and women would attend to

mea inu o ia manawa, he swipe. 'Ae. Nana 'ia nui 'ino ka swipe.
the drink. The drink in those days was swipe. Yes. A lot of

A ho'omaka kēia po'e wāhine e inu. Hau'oli nō ho'i. Oli kekahi
swipe was made. Then these women and men folk would start to

MM - po'e. Hīmeni kekahi po'e, a 'ōlapa nō ho'i kekahi
drink. They would be very happy. Some would chant. Others

po'e. 'O nā 'ano le'ale'a like 'ole. A i ka mo'a 'ana
would sing and dance as well . There would be all sorts of

o kēia i'a, a ho'okau 'ia i luna o ka lā'ī, a 'o mākou nā
merriment. When the fish was cooked it was placed on ti leaves

kamali'i 'ōpiopio, kū akula mākou. Hā'awi 'ia maila ka i'a
and we young people would go forward and the fish would be placed

i ko mākou lima. Huli a'ela mākou a hele akula i ke Ali'iwahine.
into our hands. We would turn and go up to the Queen.

Hele akula mākou a ma laila a 'o kāna i'a e makemake ai, a
We would go to her and whatever fish she wanted

lālau maila 'o ia i kāna i'a. A pau a, 'a'ole mākou ho'ohuli
she would take them. And that being done we did not dare turn

i ko mākou kua a mea..
our backs....

LK - 'A'ole hulikua i ke ali'i.
You didn't turn your back to the chiefess.

MM - Pēki i hope. A peia. Peia ihola mākou i hana ai. A honi mākou
We backed away. That's how we carried out our duty. We kissed

i ka lima o ke Ali'iwahine. Honi a pau a pēki i hope. 'Ae.
her hand then backed away. Yes.

No ka mea...pololei kēia a'u e wala'au nei. 'A'ole kēia he
What I am telling you is true. This is not

pulukeke. He mo'olelo pololei kēia i ka wā o ke Ali'iwahine.
false. This is a true account concerning the Queen.

I nā makahiki a pau kāhea 'o Oscar Cox i ke Ali'iwahine e
Every year Oscar Cox would call the Queen to go

hele i lalo o laila a ho'omaka 'o ia e hukilau. Nui 'ino
down to where the hukilau would be conducted. There

MM - ka i'a ke kāpae mai. 'O nā i'a like 'ole. 'O nā po'e
were so many fish brought to shore. All kinds of varieties

a pau, hele ma laila, 'ohi i kā lākou i'a i makemake ai. A
of fish. Everyone went there and took whatever and however many

lawa ko lākou makemake, ho'oku'u 'ia ka hapanui o ka i'a.
fish they wanted. They took what they wanted and the majority

Ho'oku'u 'ia akula nō. Lawe 'oe a like me kāu e makemake ai.
of the fish was released. The fish was simply let free. You

'A'ohe hana 'ino 'ia ka i'a.
took what you needed. The taking of fish was never abused to the extent of wasting it.

End of Item 4

Item 5 page 1

Kalehua Kaleikoa: Punishment for Speaking Hawaiian

Kalehua Kaleikoa (KK) - I ko'u hele 'ana i ke kula inā 'oe lohe 'ia
When I attended school if you were heard

e 'ōlelo Hawai'i ana 'oe, a, ho'opa'i 'ia 'oe. Noho 'oe a pau
speaking Hawaiian you were punished. you had to remain

ke kula a kākau 'oe i 'elima haneli laina i luna o...ka papa'ele-
after school and write five hundred lines on the blackboard

'ele, "Mai 'ōlelo Hawai'i 'oe". 'O ia...'o ia ka...ka 'ōlelo...
"One shall not speak Hawaiian". That was the sentence.

Larry Kimura (LK) - ..ka mea āu i kākau ai. 'Elima haneli laina.
that's what you wrote five hundred times.

KK - 'Ae. A...'elima haneli laina. 'O ia ka ho'opa'i.
Yes. I wrote five hundred lines of it. That was your punishment.

LK - A pehea lā i kēia lā? He 'ano 'ē nō paha?
And what do you think of the situation today? Isn't it rather ironic?

KK - 'Ae. I kēia manawa ke makemake mai nei i nā 'ōlelo Hawai'i.
Yes. Today many seem to want the Hawaiian language.

LK - He uku!
You get it by paying money for it!

KK - A 'o ia! 'Ae. E uku. Pololei! 'O ka 'ōlelo Hawai'i, a nunui
That's right! Yes. You pay for it. This is true! The Hawaiian

ke kālā i kēia manawa. Aia 'oe a uku a loa'a ka 'ōlelo Hawai'i
language involves a lot of money today. Only when you pay money

iā 'oe. I ka manawa i hele ai i ke kula,a, 'ōlelo 'ia 'oe,
for it then can you learn it. When I went to school I was told

"Noho mālie 'oe! 'Mai 'ōlelo Hawai'i 'oe'. E kākau 'oe i luna
to behave myself and I was not to speak Hawaiian. That's what

o ka..ka papa'ele'ele. 'Elima haneli laina. Yes. 'O ia kou...
I wrote on the blackboard five hundred times! Yes. That's

kou ho'opa'i.
what your punishment was.

End of Item 5

Item 6

Song: Kaulana Nā Pua

Kaulana nā pua a'o Hawai'i
Kupa'a ma hope o ka 'āina
Hiki mai ka 'elele o ka loko'ino
Palapala 'ānunu me ka pākaha

Pane mai Hawai'i Moku o Keawe
Kōkua nā hono a'o Pi'ilani
Kāko'o mai Kaua'i o Mano
Pau pū me ke one o Kākuhihewa

'A'ole a'e kau i ka pūlima
Ma luna o ka pepa o ka 'enemi
Ho'ohui 'āina kū'ai hewa
I ka pono sivila a'o ke kanaka

'A'ole mākou a'e minamina
I ka pu'u kālā a ke aupuni
Ua lawa mākou i ka pōhaku
I ka 'ai kamaha'o o ka 'āina

Ma hope mākou o Lili'ulani
A loa'a e ka pono o ka 'āina
Hā'ina 'ia mai ana ka puana
'O ka po'e i aloha i ka 'āina

Famous are the descendants of Hawai'i
Loyal to the land
The evil hearted delegate brings
A document greedy for plunder
Hawai'i island of Keawe answers
The bays of Pi'ilani help(of Maui, Moloka'i, Lāna'i and Kaho'olawe)
Kaua'i of Mano supports
All together with the sands of Kākuhihewa
Do not put the signature
on the paper of the enemy
It is for annexation and sinful sale
Of the civil rights of the Hawaiian people

Item 6 Page 2

We do not value
The sums of money from the government
We are satisfied with rocks
The extraordinary food of the land
We stand behind Lili'uokalani
Until justice for the nation is obtained
The story is told
Of the people who love their land

End of Item 6

'Ōlelo Hō'ike, na Larry Lindsey Kimura

Waiho 'ia i mua o ka United States Native Hawaiians Study Commission

'Oiai, 'o ka 'ōlelo Hawai'i ka 'ōlelo makuahine o nā Kanaka Hawai'i, a 'o ia wale nō ka 'ōlelo o nei pae 'āina ma mua o ka hō'ea 'ana mai o Kāpena Kuke, a 'o ia ka 'ōlelo i ho'opuka 'ia e ko mākou mau kūpuna ma nā wahi a pau a lākou i hele ai a ma nā 'ano a pau a lākou i hana ai, a

'Oiai ua hele kēia 'ōlelo a kokoke e nalo wale loa mai kēia ao holo'oko'a aku no ka loli o ke ao Hawai'i a lilo i ke ao Haole,

No laila, eia au ke koi aku nei e nānā 'ia ka pu'umake o ka 'ōlelo Hawai'i 'ano ma nā 'ano a'e e ho'ākaka a'e ana a penei la:

E ho'okumu 'ia he hale a e kapa 'ia i kona inoa 'o Ka Hale Kuamo'o nāna e mālama i nā pono me nā 'ano a pau e pili ana i ka 'ōlelo Hawai'i a me ka ho'opa'a 'ana i nā 'ike like 'ole o ka Hawai'i ma kekahi 'ano i mea e ho'olaha ai i waena o ko Hawai'i nei a o ko ke ao a puni.

Penei ka ho'okumu 'ia 'ana:

E koho 'ia nā luna o ka 'aha nāna e ho'okele a e lawelawe i nā hana o Ka Hale Kuamo'o e ka Pelekikena o ke Kulanui o Hawai'i, a i mea e pono ai kona koho 'ana e hele 'o ia i nā kumu a'o 'ōlelo Hawai'i o nā kula ki'eki'e a me nā kulanui o kēia pae 'āina no ke alaka'i 'ana iā ia.

I 'elima ka nui o nā luna o kēia 'aha, 'o ia ho'i, he Luna Ho'oponopono Kālā, he Luna 'Imi Na'auao Ma Waho, he Luna 'Imi Na'auao Palapala, he Luna Ho'olaha 'Ike, a he Luna Ho'omohala 'Ōlelo. E walewaha nā luna o ka 'aha ma ka 'ōlelo Hawai'i ma ke kama'ilio, ka heluhelu 'ana a me ke kākau 'ana. E like ka mana o lākou pākahi a pau, a e ho'oholo 'ia nā mana'o ho'oholo ma ke koho pāloka.

(English Translation)
Testimony, by Larry Lindsey Kimura

Presented before the United States Native Hawaiians Study Commission

Whereas, the Hawaiian language is the native tongue of the Hawaiian people and was the sole language found in these islands before the arrival of Captain Cook, and was the language spoken by our ancestors wherever they went and in whatever they did, and

Whereas, this language is on the verge of completely disappearing from the face of the earth due to change from a Hawaiian dominated environment to a Western dominated environment,

Therefore, I hereby implore that the well being of the Hawaiian language be tended to in its present state of threatened demise in a manner which I will now explain as follows:

An office should be established and be called the Hale Kuamo'o the purpose of which will be to direct itself towards needs in all areas relating to the Hawaiian language and to record Hawaiian cultural knowledge in various forms in order to distribute this heritage among the people of Hawai'i and the world at large.

It shall be set up as follows:

The officers of the council responsible for the direction of the Hale Kuamo'o and the conducting of its activities shall be selected by the President of the University of Hawai'i and in order that his selection be of a high calibre, he shall consult with the Hawaiian language teachers of the educational institutions at the secondary and higher levels of these islands in order to obtain direction.

There shall be five officers in this council. A fiscal officer, a Field Research Officer, an Archival Research Officer, a Distribution Officer, and a Language Development Officer. The Officers of the council shall be fluent in speaking, reading, and writing the Hawaiian language. They shall all have equal powers and official decisions shall be made by vote.

Me lākou pū ke kuleana o ke mālama a 'apono 'ana i ke kūlana pa'a o ka 'ōlelo Hawai'i ma kona 'ano a pau. E hana manawa piha nā Luna o Ka Hale Kuamo'o a e loa'a ke kuleana iā lākou e ho'i ma ka 'aelike i po'e kōkua e like me ka mea e makemake 'ia ai.

Penei nā kuleana hana o kēlā me kēia Luna o ka 'aha o Ka Hale Kuamo'o:

Luna Ho'oponopono Kālā

1. E 'imi 'o ia i waihona kālā ma waho aku o ke kālā ma'a mau o Ka Hale Kuamo'o.

2. E mālama 'o ia i nā puke waihona kālā.

3. E mālama 'o ia i nā uku hana.

4. E uku 'o ia i nā ho'olilo a pau.

5. E nānā 'o ia i nā ho'omohuahua ho'olilo o kēlā me kēia papahana a e mālama i ka uku 'ana o kēlā me kēia papahana.

6. E mālama 'o ia i nā mea pili kālā 'ē a'e a pau o Ka Hale Kuamo'o.

7. A e like me ka mea i 'ōlelo 'ia ma luna a'e, nona pū ke kuleana o ke mālama a 'apono 'ana i ke kūlana pa'a o ka 'ōlelo Hawai'i ma kona 'ano a pau.

Luna 'Imi No'eau Ha'i Waha

1. E hō'ili'ili 'o ia i nā 'ano 'ike i ho'opa'a mua 'ia i ha'i waha 'ia ma ka 'ōlelo Hawai'i a i 'ole i ha'i waha 'ia ma kekahi 'ōlelo 'ē a'e ma nā mea e pili ana i nā mea Hawai'i.

2. E hele 'o ia i waena o ka lehulehu mai ka lā hiki i ka lā kau e huli i kānaka i 'ike i kekahi mau mea mai e pili ana i nā mea Hawai'i a e ho'opa'a i ia mau mea.

3. E hele 'o ia i waena o ka po'e 'ōlelo Hawai'i a e ho'opa'a i ka 'ōlelo Hawai'i.

The Officers of the Hale Kuamo'o shall have full-time positions and they shall have the power to obtain through contract assistance as needed.

The duties and responsibilities of the various Officers of the council of the Hale Kuamo'o shall be as follows:

Fiscal Officer

1. He shall seek out sources of funding besides regular funds of the Hale Kuamo'o.

2. He shall keep all financial records.

3. He shall handle employee pay.

4. He shall pay all expenses.

5. He shall monitor the budget of each project and handle payments for each project.

6. He shall manage all other fiscal matters of the Hale Kuamo'o.

7. And as stated above, he shall also have the responsibility of maintaining and giving official recognition to standards of the Hawaiian language in all areas.

Field Research Officer

1. He shall assemble oral information that here-to-fore has been recorded orally in the Hawaiian language or in any other language in areas that pertain to Hawaiian culture.

2. He shall do field work on location searching out individuals with knowledge about Hawaiian culture and record this information.

3. He shall do field work among Hawaiian speakers and record the Hawaiian language.

4. E ho'opa'a 'o ia i nā 'ike o ha'i waha 'ia e like me ke 'ano kupono no ia ho'opa'a 'ana; ma ka lipine paho, ma ke pa'i ki'i paho, ma ka lipine ki'i paho, ma ke kaha ki'i paho, a 'o ia mau 'ano a e ho'oponopono i kēia mau 'ike no ka ho'olaha 'ana.

5. E 'ike 'o ia i nā 'ike ha'i waha i ho'opa'a 'ia e kekahi mau 'ākena 'ē a'e.

6. A e like me ka mea i 'ōlelo 'ia ma luna a'e, nona pū ke kuleana o ke mālama a 'apono 'ana i ke kūlana pa'a o ka 'ōlelo Hawai'i ma kona 'ano a pau.

Luna 'Imi No'eau Palapala

1. E huli 'o ia i ka 'ike e pili ana i nā mea Hawai'i i ho'opa'a 'ia ma ka palapala.

2. E ho'opa'a 'o ia i ka ho'ohana 'ia 'ana o ka 'ōlelo Hawai'i ma nā palapala 'ōlelo Hawai'i.

3. E huli 'o ia i nā ki'i i pa'i a i kaha 'ia paha e pili ana i nā mea Hawai'i.

4. E hō'ili'ili 'o ia i nā palapala 'ōlelo Hawai'i a me nā palapala a me nā ki'i e pili ana i nā mea Hawai'i.

5. E ho'oponopono 'o ia i nā 'ike i loa'a ma ka palapala no ka ho'olaha 'ana.

6. A e like me ka mea i 'ōlelo 'ia ma luna a'e, nona pū ke kuleana o ke mālama a 'apono 'ana i ke kūlana pa'a o ka 'ōlelo Hawai'i ma kona 'ano a pau.

Luna Ho'olaha 'Ike

1. E ho'oponopono 'o ia i nā hana e pili ana i ka ho'opuka 'ana ma ke 'ano he puke pa'i paha, he ki'i'oni'oni paha, he pā leo paha, a me nā mea o ia 'ano.

2. E 'ike 'o ia i nā mea e makemake 'ia a i 'ole i nele ma nā mea Hawai'i a e huli i ala e ho'opiha ai i ia nele.

4. He shall document orally transmitted information in a manner appropriate for such documentation using audio tape, photographic film, video tape, sketching, and similar means, and he shall organize this information in preparation for distribution.

5. He shall make himself aware of oral history information recorded by other agents.

6. And as stated above, he shall also have the responsibility of maintaining and giving official recognition to standards of the Hawaiian language in all areas.

Archival Research Officer

1. He shall search out knowledge relating to Hawaiian culture that has been written in the Hawaiian language and other languages as well.

2. He shall obtain examples of Hawaiian language usage as found in Hawaiian documents.

3. He shall search out photographs and drawings relating to Hawaiian culture.

4. He shall collect Hawaiian language documents and pictures relating to Hawaiian culture.

5. He shall organize the information from documents in preparation for distribution.

6. And as stated above, he shall also have the responsibility of maintaining and giving official recognition to standards of the Hawaiian language in all areas.

Distributions Officer

1. He shall handle activities relating to publishing books, films, phonographic records, and other forms of publications.

2. He shall make himself aware of needs and desires in the area of Hawaiian culture and seek a means to fulfill these needs.

3. E nānā 'o ia i nā 'ano mea e pili ana i ke 'ano o ke a'o 'ana i pono na ho'opuka 'ana.

4. E kōkua 'o ia i ka Luna 'Imi No'eau Ha'i Waha a me ka Luna 'Imi No'eau Palapala ma ka lawa hana ho'oponopono no ka ho'olaha 'ana.

5. A e like me ka mea i 'ōlelo 'ia ma luna a'e, nona pū ke kuleana o ke mālama a 'apono 'ana i ke kūlana pa'a o ka 'ōlelo Hawai'i ma kona 'ano a pau.

Luna Ho'omohala 'Ōlelo

1. E mālama 'o ia i ka 'ōlelo Hawai'i ma kona pela 'ia 'ana a me ka loa'a 'ana i hua'ōlelo hou.

2. E ho'omaka 'o ia i puke wehewehe 'ōlelo Hawai'i ma ka 'ōlelo Hawai'i wale nō.

3. E lilo 'o ia i 'elele o ka 'ōlelo Hawai'i ma nā hālāwai o kēlā me kēia 'ahahui o ka 'ōlelo e like me ka 'Ahahui 'Ōlelo Hawai'i a me ka Hawai'i Association of Language Teachers.

4. E lilo 'o ia i mea kōkua ma nā mea e pili ana i ka unuhi 'ana i ka 'ōlelo Hawai'i.

5. E nānā 'o ia i ka pela 'ana i nā inoa Hawai'i o nā alanui no nā kalana a pau o Hawai'i nei.

6. A e like me ka mea i 'ōlelo 'ia ma luna a'e, nona pū ke kuleana o ke mālama a 'apono 'ana i ke kūlana pa'a o ka 'ōlelo Hawai'i ma kona 'ano a pau.

3. He shall acquaint himself with various features of educational practice in order to insure quality in publications.

4. He shall give assistance to the Field Research Officer and the Archival Research Officer in their organization of material for distribution.

5. And as stated above, he shall also have the responsibility of maintaining and giving official recognition to standards of the Hawaiian language in all areas.

Language Development Officer

1. He shall handle matters relating to the spelling and lexical enrichment of the Hawaiian language.

2. He shall initiate a monolingual Hawaiian language dictionary.

3. He shall serve as a representative for the Hawaiian language in meetings of the various language associations such as the 'Ahahui 'Ōlelo Hawai'i and the Hawai'i Association of Language Teachers.

4. He shall serve as a source of information for translating the Hawaiian language.

5. He shall serve as a source for Hawaiian street names and their spellings for all counties in Hawai'i.

6. And as stated above, he shall also have the responsibility of maintaining and giving official recognition to standards of the Hawaiian language in all areas.

He ka nīnau uku pōna'i, 'a'ole ia he nīnau pa'akikī no ke kanaka Hawai'i. Ke kū nei au i mua o 'oukou he kanaka Hawai'i a pēlā 'oukou i hele mai ai e ho'olohe mai ia'u no ka mea 'o ko'u mau kūpuna au i hiki mai ai a hiki i kēia wā 'ano e no'e nei. He kanaka Hawai'i au mai kinohi mai. He kanaka Hawai'i au i kēia lā a he kanaka Hawai'i au a mau. 'A'ohe kālā, 'a'ohe uku, 'a'ohe kānāwai e hiki ai ke ho'ili i ko'u koko, i ko'u iwi a me ko'u 'ano mai a'u aku. Kū 'ē au me ko'u ikaika a pau i ke kū'ai 'ana i ke aupuni o ko'u koko, 'o ia ho'i ka uku pōna'i. He kanaka Hawai'i au e noho nei ma lalo o ka hae 'Amelika, no laila, ma ko 'oukou poho lima au e waiho nei i ka pono o ko'u lāhui e like me ko'u i ha'i aku nei ma neia 'ōlelo hō'ike.

With regard to the issue of reparations, this is not a difficult question for a Hawaiian. I stand before you as a Hawaiian and this is the reason that you have come to listen to my testimony because the source of my being is my ancestors even until this very moment. I have been a Hawaiian since my beginnings. I am a Hawaiian now and I will always be a Hawaiian. There is no money, no payment, no law that can capture my blood, my bones, and my identity. I totally oppose sale of the nation of my blood through reparations. I am a Hawaiian living under the American flag, therefore, it is into your hands that I place the welfare of my people as I have presented in this testimony.

UNIVERSITY OF HAWAII
Department of History

[illegible]

November 5, 1982

The Native Hawaiians Study Commission
Department of the Interior Building
18th and C Streets, NW, Room 6220
Washington, D.C. 20240

Dears Sirs:

RE: DRAFT REPORT OF COMMISSION

In regard to the draft report of the Native Hawaiians Study Commission, please note that as the Hawaiian historian at the University of Hawaii-Manoa, I have read the draft report carefully and find it deficient in significant respects. Particularly in the essays on history, culture, land and federal-state relations, I find that the information provided is limited, the dependence on secondary sources unscholarly and the conclusions questionable.

Sincerely yours,

Pauline N. King
Pauline N. King
Associate Professor

PNK:ga

xc: The Hon. Kinau Kamali'i

To The Native Hawaiians Study Commission
Kinau Kamalii, Chairman

In Testimony:

THE DISTORTION OF HAWAIIAN HISTORY AND THE ISSUE OF REPARATIONS

By Everett Kahilichelani "Sonny" Kinney

About twenty years ago, in the early 60's, when I first began to try to understand what was happening to the Hawaiian people, I began to realize that we had not been getting accurate information about ourselves. What little historical data we were getting was self-serving. It met the purposes of the establishment. It assumed that the control of history does serve the interests of those with the power to protect those interests.

As a secondary Hawaiian grade student on Ko'olau, Kauai I can still recall a sterile regular curriculum for learning history, i.e., the "age of discovery", as seen in the arrival of Captain Cook in Hawaii. The periods of colonization that followed to the contemporary era and those events critical of the colonizer's activities which hurt the Hawaiians, was conveniently and evasively treated. I was shocked, in my adult years, to have to come face to face with the overthrow of the Hawaiian monarchy or the rank deviousness of sugar deals (Spreckels in Maui) to name a few historical incidents and to discover how little knowledge I had about Hawaiians.

In that process non-Hawaiians were also historically deprived. They were not getting (to this day) an objective perspective of the Hawaiian-Caucasian history. What they were getting was a history comparable to my writing a history of the American Civil War. Much of what was in print about Hawaiian history was either distorted, defamed or simply overlooked. In the reparations report there has again been a deliberate distortion of Hawaiian history. It reflects the use of "half-history" or the recounting of historical events with "horse-like blinders" which prevented the historian from looking at those situations that influenced the course of history. For instance, the people who came as settlers to Hawaii, the early settler, had come from a very recent tradition or history of religious wars among themselves. Their behaviours sprung out of the great hostility and barbarism in a religiously embroiled Europe. The "reformation" wars were accompanied by extreme violence and cruelty. Violence was not strange to the Hawaiian. The difference was to be seen in the nature of the violence and what motivated that violence.

The distortion of Hawaiian history has also worked very badly against the Hawaiian people themselves. It had given them a sense of shame in their heritage with generations of children exposed to the distorted material. They had no feeling of self-identity or anything but shame for their background or for their own people. These distortions had also worked on the non-Hawaiian people to keep them ignorant and misinformed about the Hawaiin and they were not encouraged to gain more information. It created stereotype thinking which probably has been the biggest cause, in my opinion, in limiting the Hawaiian's ability to gain a fair share of Hawaii's social and economic benefits. Any settler constituents having those feelings about the Hawaiian could bring their influence and feelings to bear on their representatives in business or government, further extending social denial to the Hawaiians.

Throughout my early education and my years at the Kamehameha Schools practically no historical impact was made on me except for some idealized version of the Hawaiian. Missing was the obviousness of the Christian element that must be understand in the study of Caucasian relationships with the Hawaiians. The religious wars, the rise of new economic systems and nation-states in Europe, fed into a syndrome that made the white settlers in Hawaii behave as they did when in contact with aboriginal peoples as the Hawaiians who were thought to be inferior. The aboriginal peoples were in the way of progress, like a mountain standing in the way of a super highway. It had to be made less obstructive. Hawaiians like other aboriginals were not considered or presented in realistic terms as humans. In stark similarity to other aboriginals throughout the world (some taken inslavery) they were really imperialistic fodder in the "age of expansion". Christian attitudes that arose out of a background of Christian history had an important impact on relations with the Hawaiians. It is not reflected in the reparations report.

Native people were often referred to as savages. Savages does not point necessarily to violence in the Hawaiian contact situation. Generally, reference to savagery was made mostly in the context of observing native land ownership and land-use concepts. Hawaiians were savage or primitive because they did not need to pratice the private ownership of land in the western sense.

There is a similarity of American colonial programs when compared with the practices of other world colonial/imperialistic powers. Colonisers operate by settling colonists on the land who then fight to keep that land, acting as a buffer, as a policing agent for the colonizing power. They stand ready to assume positions of immense power after they manipulate political take-overs under the pretense of personal disenfranchisement by the native government. The myth of the frontiersman is thus revealed. It is a conscious policy of conquering, subduing and controlling of the native people. Many times it is in connivance with native aboriginal leadership (the alii) at the forefront. This is the divide and conquer technique in which they are extremely masterful. The American Indians can easily verify this method in which tribes were turned against each other for dubious rewards.

In looking at other areas of colonization in the Pacific (New Zealand, Australia) and elsewhere, the same pattern emerges. It includes taking of the land by force or religious coercion, removal of the economic base and culture, intimidation of the native people with imported power and the imposition of a bureaucratic structure which keeps the native people in a constant dependent relationship with the colonisers. When I was in New Zealand with the Maori I saw in their museums the same type of photographs of stern-faced early Christian settler/colonisers as I had seen in Hawaii museums and had remembered seeing in books that dealt with American Indian history. I had the feeling that, as if by signal, they had all left Boston at about the same time, moved across the Americas and into the Pacific, taking unto themselves native lands, labor and cultural artifacts in the name of Christianity. Today, most of the lands and businesses in Hawaii are owned by a few wealthy businessmen and landowners who can trace their ancestry to the early Christians.

The thrust of American economic development which came to dominate North American and Pacific movement, concerned land——a conscious policy of taking land from the Native people, colonizing the people into a state of dependency, placing settlers on the land to defend their self-interests and finally, to drive away or kill the native people. In the case of the Native Hawaiians the importation of contagious "white man's" diseases for which Hawaiians had little or no immunity nearly decimated the entire population. In this century, the movement has shifted to removing the settlers themselves from the land so that large corporations or wealthy individuals and the United States government will control most of land directly.

Early American political leaders realized they had to destroy the native culture in order to get the land and its resources. Colonisers in Hawaii had no need for Hawaiian labor since they had decided very early to import cheap labor from the orient or indentured labor from Europe. What they, wanted, most of all, was the Hawaiian land. They saw that the strength of native resistance was the land base and the collective bond that gave the natives the will to resist. Genocide, cultural and physical, became the primary policy of American colonisers as they moved from the Americas into the Pacific. There is no need to account, here, the status of the current Hawaiian population in comparison to when the first settlers arrived. But if one were to assume the "blinders" posture then there would be a complete absence of an assessment dealing with the factors that contributed to the genocide of the Hawaiian people. Such an absence is against the best interests of the Hawaiians as seen in the preliminary reparations report.

As I have grown older and more knowledgeable about my cultural background, I have come to have a deeper appreciation of the richness of the Hawaiian culture. This experience has enable me to see more clearly the way in which United States/European frontiers have purposely altered native cultures in various periods of history. It also enable me to examine and define ways in which native populations can begin to re-identify with their cultural heritage. We are now entering a time of cultural rebirth in which the Hawaiians need to unite and turn again to native inheritance as a source of inspiration.

In a review of native/settler relations I have come to believe that the cultural identity and even the physical survival of a native people is very closely associated with possession of their landed heritage. It may be said that to the extent that a native Hawaiian society maintains physical possession of their land to that extent they survive as a cultural entity. They have an identification to the past that is linked to the land. American Indians and the Hawaiians who have been dispossessed have an enormous difficulty in maintaining their cultural tradition although they have tried valiantly and still do so. (Ironically, in a growing movement away from the rank materialism of the present American culture, many settler descendants are themselves trying to adopt aboriginal culture concepts very clearly tied to the land). Hawaiian survival was connected to the physical subsistence from plants, wildlife, the streams and ponds and the sea. The natural source of the food was not to be destroyed. It was to be respected. The protection of the environment was part of the native religion.

American attitudes of self-reliance and self-government are closely associated with the colonization of Hawaii. They have combined, in many ways, to a white-racist interpretation or distortion of historical "happenings" to Hawaiians in an effort, as in the reparation report, to justify the colonisers actions. The central theme rationalized that Hawaiians were unable to handle their own affairs and it was necessary for the United States to subvert the Hawaiian government as a means of saving the Hawaiians from themselves. In truth, (the Americans) as pioneers and through their representatives in the Congress, have historically held the idea that it was their manifest destiny to occupy not only the continent but the Hawaiian Islands (among other Pacific territor ee) and that somehow the Christian religion and the Protestant-American Christianity ordained this. It was their manifest destiny to own the vastness of America and it was their God-given right to move across the continent to conquer Hawaii.

In the histories of the 1800's American historians frequently refer to the American colonialist movement as the manifest destiny to explain their conquest of Cuba, Philipines and Hawaii as inevitable in the "age of imperialism". But what happened to aboriginal people in this chain of events. They were exploited for their labor and their lands. Most of the Hawaiians did not and still do not know what manifest destiny means. It is difficult for them to understand that what it means is that the taking of their lands and the destruction of their culture was an inevitable process, a natural occurrence ordained from some supernatural source. The taking of Hawaiian lands and the colonization of the Hawaiian people was a conscious policy and there is not another name for it but "colonial imperialism". The Reparations Study committee should be recommending restitution instead of declaring Hawaiian non-entitlement.

The fact is, historically, there was a military assault and conquest. There was deception and diplomatic manipulation and there was the loss of life and the jailing of legitimate Hawaiian monarch. These are the facts, not just a series of unconnected Hawaiian event and not erasable. It happened. Yet American historians are still very

subjective about the historical significance of the overthrow from the Hawaiian point of view. Most non-Hawaiians are totally unaware that the United States government had blatantly contributed to the conquest of a peaceful, sovereign nation. The U.S. has tried, instead, to justify and rationalize what had happened, giving excuses or laying blame. However, there were too many contributing events from the time of contact to the overthrow as documented in the oral and written history of the Hawaiians to lay the responsibility on anyone else but these settler/sympathiser opportunists who consciously plotted the takeover process.

What then is my position. It is a simple position. The United States, having been formed as a country, as adopting a binding constitution under which document certain powers were given to the various branches of government, must admit it had committed an illegal act when it participated in the overthrow of the Hawaiian monarchy.

My second position is that the United States government historically, did in fact enter into agreements with various other Americans in Hawaii to plan and lay-out the structure of the conquest to its final conclusion.

Also, my third position is that at the time of the United States government's entry into the conquest of Hawaii they were doing it as a conscious policy. American settlers, the "frontier": people were continuously moving across the continent. And what in fact had happened is that the aboriginal Hawaiian was clearly settled and established, within a

sovereign context, but the white settlers wanted this land and, in so doing, arranged a situation to which the United States government provided the security forces for their taking of th[illegible]nd.

My [illegible] position is that the United States, as a participant in the takeover process, and as a promoter of human rights throughout the world, must voluntarily agree to make just restitution to the Hawaiian people and that the Hawaiian people through their representative organization be given the opportunity to determine the manner in which such restitution shall be made.

Mahalo a nui loa.

Mahalo —

Everett R Kinney
Puna Hui Ohana
Planner/Coordinator -

Peter Hauanio, President

P.O. Box 611
Pahoa, Hi 96778

DEPARTMENT OF PLANNING
AND ECONOMIC DEVELOPMENT
[illegible]

GEORGE R. ARIYOSHI
HIDETO KONO
FRANK SKRIVANEK

December 23, 1982

Mrs. Kina'u Boyd Kamali'i
Chairperson
U.S. Native Hawaiians Study Commission
500 University Avenue, Apt. 1601
Honolulu, Hawaii 96826

Dear Mrs. Kamali'i:

This is in answer to your letter of December 20, asking for my comments on parts of the Native Hawaiians Study Commission's Draft Report of Findings, dated September 23, 1982.

Although the section accompanying your letter seemed generally correct and objective, I have noted several minor errors or distortions which might be corrected in the final draft.

In table 20, page 38, for example, income trends are shown for males by race from 1949 to 1969. In this table, the 1969 data for Hawaiians and Part Hawaiians are not comparable to the earlier figures, because of the redefinition of "Hawaiians" in the 1970 census which assigned many Part Hawaiians to non-Hawaiian categories, principally Ca[illegible] (called "White" in 1970) and Chinese. The Caucasian (or "White") group, moreover, includes many members of the armed forces, characterized by low wages but numerous perquisites; restricting the tabulation to civilian males would significantly alter the income rankings by race.

The source reference to table 21, page 39, may be in error. These data probably came from the 1975 OEO Census Update Survey and not, as indicated, the Health Surveillance Program.

Table 22, page 40, relates welfare case loads in 1977 to population data for 1975. Inasmuch as 1977 population data are available (see DOH/DPED Population Report No. 11, "Population Characteristics of Hawaii, 1977"), the 1977 figures should be used for calculation of rates. There is also some question as to whether the DSSH data followed the same ethnic definitions as the DOH survey data used as a base.

Many of the tables in the Draft Report end with 1970 (or even 1960) statistics, because of the unavailability of 1980 census results at the time the report was prepared. Within a few months, however, we expect to

Kina'u Boyd Kamali'i
Page 2
Dec. 23, 1982

receive many of the 1980 statistics needed to complete these tables. It should be stressed, however, that the ethnic definitions used in 1980 differed from those in 1970, which in turn differed from those for 1960; as a consequence, no meaningful comparisons of trends are possible.

Sincerely,

Hideto Kono

HK/RCS/hn

November 23, 1982

To: Members of the Native Hawaiian
Study Commission
Department of the Interior Bldg
18th & C Streets, N.W., Room 6220
Washington, D.C. 20240

From: Pōkā Laenui
Citizen of the Nation of Hawaii

Oftentimes, it is only when you can place yourself in the shoes of someone else can you truly understand that person's circumstances and actions. Therefore, visualize yourselves in the following scenario:

You possess a jewel of rare beauty and value, one passed from generation to generation. I and my cohorts covet this jewel and conspire with others, one of whom has control of weapons and soldiers, to overwhelm you and steal that precious jewel. Once, the theft is accomplished, we threaten you, your loved ones and others who are loyal to you, with dire consequences and spread rumors aimed at discrediting you.

You are outraged by the theft and look frantically for a way to recover the jewel and look for friends to intercede. You go to a trusted friend and ask that he investigate the incident and assist you in recovering this jewel. Significantly, this "friend" is the boss of that person who had the ultimate command over that person whose men and arms were criminal to the theft of the jewel. The investigation is conducted quickly and the results are clear and are published for all to read: The jewel was stolen by me and my cohorts and could not have been stolen had it not been for the intrusion of my agent and the soldiers and arms under his command.

The recommendation was clear: "Return the stolen jewel!"

We refused and for whatever reason, your "friend" refused to do anything more about the matter. So, openly and hostilely for the last 89 years I and my cohorts have "sold" the jewel and parlayed the proceeds of that "sale" into legitimate power so that we now control all the domestic systems you could logically go to for redress of your grievance.

However, we had assumed that after 89 years you would have forgotten the theft or become so used to the idea that we could safely assume the original deed was put on the shelf. But we were wrong, there are still some among you that are dredging up the past, bringing the facts to light, embarrassing us, and of all things, asking us to return what we stole. The check! We create an investigative commission to take care of this. Our investigation of the incident

---

shows no such theft and therefore no compensation or return is necessary or deserved.

End of scenario.

Commissioners, I am sure you recognize this simplified scenario as being similar to that of the overthrow of the Hawaiian Nation by citizens and agents of the United States in 1893. You must also recognize in the simple way I've structured the scenario, the absurdity of the situation which forces the victim to ask the victimizer to first admit the crime and then furnish the just punishment and enforce the punishment. But that is exactly the absurd situation Hawaiians are faced with today in having to deal with the Native Hawaii Study Commission, a product of the government that helped to steal and handsomely profited from the theft of that Hawaiian jewel, the Sovereignty and Nationhood of Hawaii, to redress the wrongs done to Hawaii and Hawaiians.

This Commission can never bring peace, can never bring Justice to Hawaii and Hawaiians. Therefore, for me and for all others of same thinking, the Commission's study, findings, recommended actions, etc. have no affect on me as a citizen of the Sovereign Nation of Hawaii. I do not recognize your authority to judge and interpret Hawaiian history, Hawaiian laws and Hawaiian rights. The law I follow is the Hawaiian law: "UA MAU KE EA O KA AINA I KA PONO."

Hear the prayer of our Queen Liliuokalani as she spoke to you Americans:

> Oh, honest Americans, as Christians hear me for my down-trodden people! Their form of government is as dear to them as yours is precious to you. Quite as warmly as you love your country, so they love theirs. . . . [D]o not covet the little vineyard of Naboth's, so far from your shores, lest the punishment of Ahab fall upon you, if not in your day, in that of your children, for "be not deceived, God is not mocked." The people to whom your fathers told of the living God, and taught to call "Father," and whom the sons now seek to despoil and destroy, are crying aloud to Him in their time of trouble; and He will keep His promise, and will listen to the voices of His Hawaiian children lamenting for their homes.

Any resolutions of this conduct by the United States and its cohorts should be arrived at by the full and equal participation of citizens of the Nation of Hawaii and the United States before an international tribunal cognizant of the Laws of Nations and ready and willing to apply them fairly.

Sincerely,

Pōkā Laenui

Pōkā Laenui, also known as
Roydon F. Burgess

Aloha, October 5, 1982

I am very pleased to be given the opportunity to voice my opinion concerning retribution to Hawaiians for the lands which were taken from them. I feel that any type of monetary retribution from the Federal Government to the Hawaiians would amount to nothing more than a pay-off for our silence.

While I was in the Air Force a roommate of mine received $500 in retribution from the US Government for lands that were taken illegally from his Indian people. The Government [illegible] with a quick-fix solution to a grave injustice. The monies given to the Indians was a one-time deal and will not benefit the Indians yet unborn.

I feel that a fair settlement to Hawaiians could be reached through a two-step process. We cannot let the Government slap us in the face by handing each of us a check for a few dollars and saying, "OK, we're even." What would those few dollars do for us and for future Hawaiians?

We must obtain from the Government the very thing that was taken from us — Land! Washington could purchase parcels of land and turn them over to our State. Some of the parcels would be used as State Parks, and the larger parcels would be entrusted to the Office of Hawaiian Affairs and kept as wildlife sanctuaries.

Some people would argue that a State Park would not be retribution given directly to Hawaiians. This is true, but the park would be available for use to all Hawaiians — malihini as well as kamaaina.

My second proposal of placing the management of wildlife sanctuaries into the hands of OHA would enable all Hawaiians to manage these properties in as any major decisions concerning the properties could be put to public vote. Revenues for improvements, maintenance, and studies could be obtained through charging for camping/trail tours, and from contributions from the public.

I have no understanding of the process involved in drafting such a bill for presentation before congress, nor do I know if such a proposal would be taken seriously. But as a Hawaiian I would rather have something that will be ours forever than a few bucks and a meek apology.

Imagine — land "owned" and used by all Hawaiians. Sanctuaries preserving the natural beauty that our forebears found — our paradise — named Hawaii.

Sincerely,
Kevin J. Lopes

DRAFT

THE DEMISE OF THE HAWAIIAN KINGDOM:
ITS PSYCHO-CULTURAL IMPACT AND MORAL LEGACY

Prepared
for the
OFFICE OF HAWAIIAN AFFAIRS

by
RAMON LOPEZ-REYES, Ph.D.

February, 1983

The preparation of this paper has been sponsored by the Office of Hawaiian Affairs. The thrust of this paper has been to examine the Office of Hawaiian Affairs' observations that:

> ...the injuries suffered by the Hawaiian people as a result of the overthrow of the monarchy and subsequent annexation were great.

and;

> ...in addition to losing land, Hawaiian natives also lost sovereignty and dominion over the islands. Obviously, this was a loss of incalculable value. Like land, the loss of sovereignty cannot be replaced by money. It is a collective psychic damage which manifests itself negatively in the loss of self-esteem and identity as a people and in the degradation of traditional practices and culture. (Office of Hawaiian Affairs, Towards Reparations/Restitution, p. 18.)

The contents of this paper, however, express the opinions of the author and do not necessarily infer endorsement by the Office of Hawaiian Affairs.

CONTENTS

PAGE

INTRODUCTION 1
PART I: THEORETICAL CONSIDERATIONS 3
  Psycho-Cultural Preface
  Contact Culture
  Cultural Trauma
  Concluding Statement
PART II: CULTURAL IMPACT 8
  Loss of Status
  Loss of Pride in Culture
  Loss of Language
  Loss of Land
  An Outsider's Culture
  Search for Identity
  Addendum: Tri-Culturation
  Concluding Statement
PART III: MORAL LEGACY 26
  A Call for Justice
  Moral Responsibility
  The Federal Response to its Moral Responsibility Toward Native Hawaiians
  Native Hawaiian Concern with Restitution
CONCLUSION 37
NOTES 42
BIBLIOGRAPHY 47

INTRODUCTION

When Captain Cook arrived in the Hawaiian Islands, he found an indigenous people with their particular form of culture. In subsequent years the penetration of Western influence directly altered the indigenous Hawaiian culture. Of special interest to this is not, per se, the impact of Western culture on Hawaiian culture but, more specifically, the focus is on the psycho-cultural impact which the overthrow of the Hawaiian Kingdom in 1893 had on Native Hawaiians.

An examination of the impact will be based on six broad questions:

1. How can the results of the contact between the United States and Hawaiian cultures be understood conceptually?
2. What conceptual model can assist in analysing the behaviors of Native Hawaiians which are attributable to the demise of the Hawaiian Kingdom?
3. What was the psycho-cultural impact of the demise of the Hawaiian Kingdom?
4. To what degree was this impact traumatic?
5. Does the nature of the psycho-cultural impact associated with the demise of the Hawaiian Kingdom bequeath a moral legacy?
6. If a moral legacy exists, how does it relate to the issue of restitution to Native Hawaiians?

The first two questions are conceptual; they focus on models to facilitate the study of United States influence on Hawaiian culture and to assess behaviors which were the consequences of the demise of the Hawaiian Kingdom.

The third and fourth questions bring attention to actual psycho-cultural dynamics that can be traced to the demise of the Hawaiian Kingdom. The methodology here is topical rather than definitive (which would be beyond the scope of this brief paper).

The fifth and sixth questions link an ethical dimension to the scope of this study and, therefore, extend it beyond academics to the threshold of policy formulation.

This study reflects a psycho-cultural orientation. Taken together, the six questions permit a psycho-cultural examination of

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the demise of the Hawaiian Kingdom as well as a commentary on the moral legacy associated with the overthrow of the Kingdom and annexation by the United States.

It is not the intent of this paper to analyse the socio-cultural history[1] of Hawaiians since the overthrow of the monarchy. Neither is it a treatise to vindicate Hawaiian culture. It is fully recognised that had the Hawaiian Kingdom survived, Western culture would have continued to alter the "Hawaiianness" of the Native Hawaiian. A basic premise of this paper, however, is that the loss of sovereignty set in train repercussions that most likely would not have occurred in the same manner had the Kingdom survived.

A major difficulty in analysing Hawaiian culture after annexation is the confusion regarding the definition of "Native Hawaiian," who, for the most part, have become a mixture of Hawaiian with European-American (haoles), Japanese, Chinese, and Filipinos. This blending of peoples (and the different cultures that they represent) in itself altered Hawaiian culture. While that influence is not the focus of this study, its reality is recognized and has assisted in concentrating on cultural issues that are not basically attributable to this blending of peoples.

PART I
THEORETICAL CONSIDERATIONS

Psycho-Cultural Preface

Each grouping of people possesses a distinctive culture. Hawaiian culture evolved from the traditions, values, and thought patterns which the first immigrants brought to the islands, and from the way in which these cultural elements adjusted to the geographic character of the islands. Hawaiian culture, as any other culture, is the integrated summation of behavior traits learned and shared by members of society.[2] Hawaiian people invented Hawaiian culture and it may be considered a heritage transmitted to each new generation.

Cultural norms provide the basis for group and individual behavior. In general, conformity is rewarded. For most individuals, culture contains the mainsprings for establishing an identity. Culture by itself is not identity. Rather, culture holds the substance on which to fashion a personal identity. An identity crisis appears when the individual loses contact with the historical continuity of his culture and perceives himself apart from the "personal sameness" which culture sustains.[3]

Contact Culture

The concept of "contact culture" offers a framework for understanding what occurs when an outside culture contacts an indigenous one. Contact culture appears when a donor culture, mainly through missionary and trading activities, thoroughly infiltrates the core of the host culture. Were the means for such infiltration based on military or political activities, then the product is more correctly labeled "conquest culture." In either mode--contact or conquest--the recipient of the donor's culture must first strip down or reduce the contents of its own cultural elements in order to absorb new ones (for example, a language giving way to the donor's language). What becomes grafted from the donor's culture blends into the fabric of the indigenous cultural base. After awhile, the contact culture becomes the extant culture. In Hawaii, contact culture survived until the overthrow of the Hawaiian Kingdom.

A contact culture is not a transplanted culture (nor is it a "colonial culture," the content of which is not grafted on in any sustaining manner). Rather, the host or indigenous culture screens the incoming content through what George Foster calls "formal" and "informal" processes. Formal refers to the role that government administrators, trading companies, et cetera, play in the territory. Informal refers to the unplanned mechanisms whereby the personal habits of emigrants, their food, superstitions, music, hopes, et cetera, are selected and maintained in the new territory.[4]

A contact culture took root in Hawaii by the 1830's;[5] its contents included a Christian form of religion and increasing penetration of the English language. Western dress, architecture, and weaponry were adopted, as well as educational, health, fiscal, and judicial practices. After the Great Mahele of 1848, Western land practices were, to some extent, incorporated. A subtle example of how contact culture took root in Hawaii is found in a law of 1860, which required that a Christian name be taken in addition to the Hawaiian one.[6]

After annexation, contact culture became dysfunctional and a transplanted United States culture took root. However, for one reason or another, most Native Hawaiians did not participate in it. Those who did not adjust became cultural outsiders. Native Hawaiians, in losing their contact culture--no matter its own unstable characteristics--and in failing to participate in the transplanted culture, became a "conquered" people.

Cultural Trauma

The focus of this paper is to assess the cultural impact of the overthrow of the Hawaiian monarchy. The concept of cultural trauma presents a theoretical basis with which to accomplish this assessment. Cultural trauma results when events overwhelm the value system of the existing culture [illegible] that it no longer is able to provide meaning and direction.

The process by which an indigenous culture becomes a contact culture may be traumatic. For example, the inhabitants of the Aztec capital after the Spanish conquest undoubtedly experienced cultural trauma, the working through of which formed Mexico's subsequent

contact/conquest culture. However, the indigenous inhabitants in the remote corners of Mexico did not experience a cultural trauma although, there too, a contact culture emerged (albeit slower and less dramatic). Insular indigenous societies cannot escape the full brunt of the donor's influence. For this reason, it may be correct to conclude that the Hawaiian indigenous culture suffered trauma from exposure to Western political policies, economic practices, and cultural values. The contact culture which emerged, therefore, represents a coping strategy to adjust to the cultural trauma. Notwithstanding the validity of a cultural trauma prior to the overthrow of the monarchy and annexation by the United States, this paper primarily examines the cultural trauma associated with these events. Clearly, the trauma beneath the surface of the nineteenth-century contact culture cannot be totally separated from what occurred after the overthrow. The following discussion recognizes the traumatic nature of the contact culture, although its analysis is not within the purview of this paper. Rather, the existence of a contact culture is utilized as a background in order to assess the psycho-cultural impact of the demise of the Hawaiian Kingdom.

Recently, attention has been given to the post trauma syndrome experienced by Vietnam veterans. Rape victims also experience a form of post trauma syndrome. Trauma occurs when the usual coping mechanisms no longer function. When a situation over-reaches the usual coping mechanisms, "a person experiences an increase in anxiety, feels helpless, and develops an array of uncomfortable symptoms."[7] In the case of rape trauma, the victim generally experiences a recoil phase which is characterized by a successful implementation of coping mechanisms that result in a decrease of symptoms and a gradual resumption of normal functioning."[8]

The gradual resumption of normal functioning does not infer that the trauma has been resolved. Most likely it has not, thus the name "post trauma syndrome." Beneath the facade of "normal functioning," the trauma is still in need of resolution. The symptoms of this syndrome may include feelings of humiliation with concomitant lowering of self-worth, and repressed rage.

Humanity has the flexibility to endure and persist with the necessities of living. The rape victim might fantasize revenge, but

most likely feels too insecure to voice anger, particularly if the society tends to suppress the issue. When society is not receptive the rape victim suffers through the post trauma period alone and without solace. In a similar manner, a people who suffer a post cultural-trauma syndrome feel the humiliation and low sense of self-worth, and "sit" on their anger, particularly when the perpetrator of the trauma, who holds the dominating political and economic position, is not receptive to the suffering of those with the post trauma syndrome. A focus of this study is not just to assess whether the impact of the overthrow caused a cultural trauma, but also to present a conceptual model by which the cultural trauma can be explained in behavioral and clinical terms. The post trauma syndrome concept provides such a model.

The feminist movement recognizes that successful working through of the post rape-trauma syndrome requires not only giving attention to the victim, but also bringing attention to society's view of rape. The movement's contribution has been in raising the level of consciousness toward rape and the reality of post rape-trauma syndrome. Likewise, minority movements (Black, Indians, Chicanos) on the one hand, have enabled their members to openly express anger and dissatisfaction with civil rights practices of the dominant culture and, on the other hand, raised the consciousness of the dominant Anglo community to the trauma violation of civil rights causes.

Without this increase in the level of consciousness (whether pertaining to veterans, rape, or civil rights) trauma cannot be truly worked through. If their situation is not understood, victims, individually or collectively, suffer alone, recoiling within, remaining mistrustful of the dominant society and exhibiting little sense of self-worth. In this context, there is a need to raise the level of consciousness regarding the post cultural-trauma syndrome of Native Hawaiians.

Concluding Statement

It is beyond the scope of this paper to fully outline the dynamics of contact culture or cultural trauma. At the same time, the experience of Hawaii provides an example upon which some

tentative conclusions can be made. First, an indigenous culture adjusted to a situation where missionary or mercantile pressures were traumatic in themselves by developing a contact culture. Second, contact culture, as any other culture, enables a society to preserve an identity even though it remains unstable. It is likely that members reflect a sense of cultural inferiority vis-a-vis those members of the donor's culture. Third, cultural trauma may occur by way of added-on experiences if they finally overwhelm the coping mechanisms of the prevailing culture. (At this point it is injected that the intensity of the added-on experiences, as well as the duration of the so-called injustices and patterns of prejudice of the donor's culture, define the severity of the post trauma syndrome.) Fourth, indigenous people in the grips of a post cultural-trauma syndrome must work through the trauma in order to re-establish a cultural base upon which to fashion viable identities. And fifth, working through the cultural trauma is highly dependent on the level of consciousness which the dominant society attains regarding the trauma and its role in the development of that trauma.

PART II
CULTURAL IMPACT

This section provides a topical glimpse of the psycho-cultural impact Native Hawaiians experienced after the overthrow and demise of the Hawaiian Kingdom. The immediate result, loss of status, continues to plague Native Hawaiians to the present day. A loss of pride in culture subsequently occurred. Loss of cultural pride was already manifest during the development of a contact culture, but after the overthrow, such loss became widespread and traumatic. In this period, the loss of language (and its ability to give special expression to cultural nuances) became almost total. However, the loss of land which severed Native Hawaiians from a fundamental source of their identity, triggered what may be called a cultural identity crisis. From these losses and perhaps in response to this crisis, there emerged an outsider's culture which, for all practical purposes, further removed many Native Hawaiians from their original cultural roots. Collectively these six experiences are the content of a Hawaiian cultural trauma. In addition, the recent emergence of a "tri-culturation" process (Hawaiian-Anglo-Japanese) has made the difficulty of working through this trauma more arduous.

Loss of Status

Regardless of the overwhelming impact of Western culture and the progressive decimation of the Hawaiian people during the nineteenth century, Native Hawaiians still had their monarchy in which to take pride. After the overthrow of their monarchy and during the ensuing wait for the justice of the United States to restore the monarchy, it became extremely difficult to find pride in the indigenous culture already swamped by cultural imports introduced by those very same people who overthrew the monarchy. After the overthrow, the contact culture, which evolved from missionary and trading influences, increasingly took in the guise of a "conquest culture." Where once the Hawaiian language had a place of pride and Hawaiian traditions honored, the overthrow and annexation decisively changed circumstances and the remaining fabric of the indigenous culture was rent apart. With the political changes that transpired, "a few haoles took up the room at the top. Oriental tradesmen and craftsmen, with other immigrants and less prosperous haoles, pretty well filled up the middle. Most of the Hawaiians were left at the bottom."[9] To the present, Native Hawaiians never have regained a satisfactory political or economic position.

Prior to the overthrow, Native Hawaiians enjoyed a social status higher than Asiatic immigrants. After annexation, the situation changed drastically. For example, a Scottish blacksmith averaged $4.16 a day and a Hawaiian received $2.94 a day, but the Japanese blacksmith earned only $1.09 a day.[10] The drastic reversal of status can be gleaned from income data during the 1970's. In 1977, the median annual income of a family head among Japanese was $19,431.[11] Meanwhile, Winona Rubin reports that in 1975, sixty-two percent of Native Hawaiians had no reportable income and, of those with income, approximately one third received less than $4,000 annually.[12]

Another example of loss of status is found in examining the number of Hawaiians in professions. Of the 400 teachers employed by the public school system in 1905, 148 (or thirty-seven percent) were Native Hawaiians. Seventy-five years later, approximately sixty percent of the teachers were of Japanese ancestry, while seven percent were Native Hawaiian.[13]

In most respects, the Native Hawaiian tumbled to the bottom of the socio-economic ladder, besting on occasion statistical data on Samoans and Filipinos. Even when compared against these low socio-economic groups, Native Hawaiians, in infant mortality and rate of illegitimate births, were worse off.[14]

These grim statistics[15] suggest that Native Hawaiians are not apt to find pride in their culture which formerly was respected, but subsequently held in contempt. The most famous demonstration of anti-Hawaiian sentiment occurred in 1932 during the Massie trial in which a group of youths (two of whom were Native Hawaiian) were accused of raping a naval officer's wife. Although acquitted, a local newspaper was convinced of the youths' guilt. "The Advertiser called them 'fiends' who had kidnapped and maltreated a 'white woman of refinement and culture.' The same paper considered them 'beasts,' at once primitive and degenerate, less civilized than the aboriginal blacks of Australia or New Guinea."[16]

In a manner of speaking, the pattern of prejudice toward the Native Hawaiian after annexation was basically paternalistic. Although the Organic Act of 1900 gave Native Hawaiians the right to vote, it seemed natural for the haoles to view Native Hawaiians as children who could not be trusted with this right.[17] World War II, with the mass transfer of Anglo males (with their concomitant patterns of prejudice) to Hawaii, sharpened racial hostility. The Native Hawaiian became the "gook," "nigger";[18] he became the "local," that is, a person of whom one should be leary.

Loss of Pride in Culture

The loss of status, symbolically upheld by the monarchy, undermined the facade that contact culture rested on firm foundations when the donor turned conqueror. The feeling of betrayal by the donor spilled over to feeling betrayed by the contact culture; it no longer had validity. The varying and at times traumatic experiences of the contact culture slowly but surely removed Native Hawaiians from the sources of their indigenous culture. If there was no present, it also was evident that there was no return, and as it soon became evident, that there was no future. From what occurred subsequently, it is inferred that, after the overthrow and annexation, Native Hawaiians were left without an integrated cultural base from which they could forge identities that, in turn, would enable them to participate in the transplanted culture of the conqueror. While the above may be somewhat speculative, findings based on a post-annexation, psycho-cultural analysis indicate that a real trauma occurred when the extant contact culture disintegrated, that the indigenous culture was too far-removed to revive, and that the transplanted culture remained beyond reach or directly opposed.

While Hawaii represents an experiment in the mixing of diverse peoples with a modicum of success, it would be invalid to claim that the Native Hawaiian is well-integrated into the larger social fabric of the present-day society. The issue ever since annexation has not been one of attaining biculturation,[19] but one of establishing a cultural base upon which to regain pride and meaning.

In a manner not too different from the Native American, the Native Hawaiian, after annexation, increasingly experienced himself as a stranger to his indigenous culture and alienated from the Anglo culture. An older Native Hawaiian, who perhaps speaks for many of his age group, said: "Too many of us are, in a sense, ashamed of being Hawaiians. We cannot succeed in, nor even cope with, the contemporary, commercially dominated culture of our islands."20

Edwin Burrows, in 1946, brought attention to the impact of haole prestige on Native Hawaiians and of their attempts to find relief" from haole cultural dominance. Thirty years later, Alan Howard wrote about the "coping strategies" of Native Hawaiians. One behavior for finding relief from or in coping with haole cultural dominance has been alcoholic intoxication.[21] Howard opined that drinking among Native Hawaiian males constitutes a secondary defense against stress.[22] This may explain why alcoholism has not overwhelmed the Native Hawaiian as perhaps it has other dispossessed peoples in other situations.

In order to find relief from haole dominance and to suppress cultural alienation, Native Hawaiians have developed an "ain't no big thing" coping mechanism which alleviates stress by denying the significance of situations. The Native Hawaiian, whether from an inability to cope with cultural diversification and haole cultural dominance, or from outright resistance to cultural plurality and Anglo culture, found relief by projecting a style of life distinct and basically "Hawaiian." What emerged as visible to non-Native Hawaiians (particularly after 1920) was what Burrows called "stage-Hawaiian." "He lives, or is supposed to live, a happy-go-lucky life: basking on the beach, renouncing the pursuit of worldly goods and all such care-laden haole virtues."[23] The stage-Hawaiian, reinforced by the tourist industry, fashioned a superficial allegory of the "aloha spirit." But, notwithstanding the vicissitudes confronted by Native Hawaiians, the tradition of aloha was carried forward[24] behind the facade of stage-Hawaiian and remains a cultural heritage for subsequent generations.

Aside from the Native Hawaiians fully able to participate in the Anglo society (and even these may experience a cultural identity difficulty), a large number of Native Hawaiians (very evident among adolescents) find little meaning in being Hawaiian. As such, they often experience a marginal cultural existence and, much too often, recognize that the Native Hawaiian part of them is not culturally respected by the society in which they live. A "normal" response to this cultural alienation is psychological confusion manifested in violence and acting-out behavior.[25]

During the period of contact culture, Native Hawaiians were not categorically placed into an inferior status.[26] In relative terms, the haole patterns of prejudice were moderate. Nonetheless, Native Hawaiians, no matter from which stratum of society (except for those who married into the haole's inner circle of economic means), felt the haole's condescending, if not patronizing and manipulative, attitudes. By the 1960's, the political and economic rise of the descendants of Oriental immigrants capped the omnipotence of haole society. In the passing of this cultural invincibility and in the progressive loss of ethnic cohesiveness among Orientals, a Hawaiian cultural renaissance may take wings.[27] Such a renaissance is the promise; the present, however, still flows from the loss of cultural pride activated by the overthrow. Lorin Gill succinctly notes the present dilemma:

> What concerns me most is that a growing segment of the population [Native Hawaiian] is developing, has developed, and is increasingly confirming, an image of itself--I am going to be a drop-out, I am going to be the delinquent, my family is going to be the one where the old man takes off, I am going to be the one who doesn't have the education, I am going to be the one who gets in trouble with the schools first.[28]

A Native-Hawaiian teacher provides additional observations:

> It hurts me so much when teaching a class to see that my people--the Hawaiians--are the ones watching the lunch line, the P.E. classes; and the Japanese are listening to my every words....I wish I could instill in my kids the importance of accepting as much as possible of the whiteman's concepts of what the world should be and compete with the Oriental. But tearing inside of me simultaneously is the fear that they will end up like I have. I am completely accepted by, and competitive in, this white world, but so totally unhappy because somewhere along the way I've lost myself. I can't honestly say I wake up in the morning and know who I am and where I'm going.

Fuchs opines that the socio-economic plight of Native Hawaiians relates to a general and real difficulty in adjusting to the highly

competitive haole social order. He also linked this inability to adjust with the physical decline of Native Hawaiians.[30] A Native Hawaiian male voiced his concern about inferiority among Native Hawaiians before a Congressional hearing:

> I feel if this bill is passed, that would give the Hawaiian people an opportunity for equal footing and correct the atrocities that have been done But it is hard to expect peoples who have not been oppressed for so long to stand up and fight for our side because you are so well educated and well informed. You have generations of support in your area. We as Hawaiians are a generation moving from an era where we did not understand these things, to an era where we must.[31]

If Native Hawaiians could not adjust because of feeling betrayed, for lack of the temperment, or because of resistance, the Japanese and Chinese could and did adjust to the transplanted Anglo culture which began to dominate after annexation. Barriers to competing were basic Hawaiian cultural traits of affiliation, and the maintenance of interpersonal harmony.[32] Affiliation and obtaining harmony was achieved through day-to-day living. Planning, thrift, and accumulation of goods were concepts associated with the Western practice of private property.[33] Even after the Great Mahele, Native Hawaiians did not develop the necessary mental set to compete with haoles and Oriental immigrants. It is not surprising that for the first four decades of the twentieth century, the Native Hawaiian reinforced his "avoidance" patterns of behavior,[34] vis-a-vis haoles, as well as his day-to-day lifestyle; he was the happy-go-lucky stage-Hawaiian to the outsider. But these years were filled with frustration and silent rage, promoting a backward glance to recapture the feeling, no matter how brief, of pride in culture. But when present, as in the prestige of Duke Kahanamoku, the Hawaiian swimming her, Native Hawaiians took notice and personally shared in the recognition.[35]

During these depressing years, Native Hawaiians, bereft of pride and perhaps of any hope as the race continued to decline, transformed "avoidance" to "resistance." Passive resistance, a form of avoidance, has been employed historically by Native Hawaiians with great aplomb."[36] However, a new strain of resistance emerged, that is, a resistance to accept even what they wanted if that something was controlled by non-Hawaiians. In this context,

Mary Pukui notes: "Resistance, rather than lack of intelligence or ability, keeps too many Hawaiians in this dismal, if not vicious cycle."[37]

While World War II brought changes in the willingness of the Native Hawaiian to compete with the other ethnic groups, their sense of cultural pride remained low. The following statements from Native Hawaiians reflect the profound pathos of the Hawaiian spirit:

> My parents used to say: "Marry a haole and get plenty money; marry one Japanese and get smart head. But I no hear anything about marry one Hawaiian."[38]
>
> Over the last 200 years our people have lost so much of our identity, that the real repercussions show up now in my age group and younger. A lot of the older generations have a lot of the old ways and teaching they can rely on. Myself as I grew up, it was embarrassing to say you were Hawaiian.[39]
>
> Every Hawaiian has a built-in inferiority complex. You can't help but have it, because you come from a culture that's no good, and nothing in it is good. You have no solid foundation. So you flounder around and you can't find a place for yourself. Everywhere you go, you get reminded of the fact that you are Hawaiian....There is this emptiness that exists for a Hawaiian.[40]

The widespread report of lack of pride in culture and the depth of self-depreciation among Native Hawaiians, in a manner of speaking, approximate feelings rape victims experience. The feelings of estrangement and humiliation are those associated with a rape situation. As a rape victim seeks to restore personal dignity to her life, so do victims of a cultural trauma. For the Native Hawaiian, the stake for the future is simply "human dignity."[41]

The loss of dignity precludes the establishment of viable identities and promotes a sense of helplessness, if not of despair, in confronting various patterns of prejudice, and in being objects of stereotypic attitudes which picture the Hawaiian as lazy, dishonest, untrustworthy, and spendthrift. This situation in its total configuration, makes being Native Hawaiian today a hardship psychologically and economically.

Loss of Language

Although English was the general medium for instruction in schools prior to the overthrow,[42] Hawaiian remained the official

language of the Kingdom and the medium used in the legislature. The Organic Act, which officially made Hawaii a U. S. Territory, changed that; it "stipulated that all sessions of the legislature were to be conducted in English."[43]

When Hawaiian lost its official status, it increasingly became less used by Native Hawaiians. In part, the demise of the Hawaiian language came from a Territorial policy banning the use of the Hawaiian language in schools, ostensibly to improve the mastery of English.[44] The loss by itself might not have been harmful culturally if, indeed, Native Hawaiians mastered English and used that medium to carry the Hawaiian features of the nineteenth-century contact culture into the twentieth century. In the case of religion, such occurred. Native Hawaiians generally converted to Christianity and used that form of organized religion to express their unique Hawaiian spirituality. But in language no true substitution occurred. Rather, a "lingua franca" (pidgin English) evolved, lacking the structure and breadth to express the varied nuances of thought.

From an anthropological point of view, "each language is an instrument which guides people in observing, in reacting, in expressing themselves in a special way."[45] In losing their indigenous language and, in exchange, gaining an incomplete substitute, Native Hawaiians lost an ability to express themselves in the special way of their culture. Had the Kingdom survived, most probably the language would also have survived regardless of whether English was the instructional medium in schools.

As a way of interpreting an experience, language provides the conceptual filter which makes things fit together and be understood. It is the medium for learning abstract thought and, as such, enables the culture to expand. "Human beings," wrote Edward Sapir, "do not live in the objective world alone, nor alone in a world of social activity as ordinarily understood, but are very much at the mercy of the particular language which as become the medium of expression for their society."[46]

Native Hawaiians dependent on pidgin are at the mercy of a destitute language regardless of its charm, its role in affirming a self-concept of being friendly, or its role in facilitating communication between the immigrants of Hawaii; its limits both the ability to express the richness of a personal experience and to interpret the fullness of reality. In the scientific age, "pidgin cannot communicate the exact meanings that are absolute requirements of science, commerce, and the academic world."[47]

If through language humans see, hear, and understand, then "language is a philosophy."[48] The Native Hawaiian who has no complete language is left with a philosophy which fetters him to cultural marginality. This, then, is the great tragedy which the loss of the indigenous Hawaiian language has brought upon many Native Hawaiians.

Loss of Land

Traditionally, Native Hawaiians have had a marked affinity for the land. "When you take the land away from them, you've cut them away from who they are," said a Native Hawaiian.[49] Attachment for the land was never based on economic or political power. Rather, it came from being in harmony with one's surroundings. Such is often facilitated when ownership is not an issue. Whereas American society, in general, views land as a "relatively fungible economic resource," the Native Hawaiian perceives it more as a spiritual and cultural resource.[50]

The Hawaiian Homes Commission Act of 1920, contains a recognition of the role land plays in Native Hawaiian well-being. But the motivation of the Act seems to have been primarily economic. True, there was an intent to rehabilitate Native Hawaiians and save them from extinction. But, in the final analysis, the Act served better the interests of "king sugar" than those of Native Hawaiians.[51] The "land for Hawaiians" ideology of Prince Kuhio ended as a travesty against justice. Theon Wright wrote that "this legislation had little effect one way or another on restoring the lands to the Hawaiian people."[52] The sense of being deceived, once it was understood that the lands assigned to the Act were among the poorest in the islands[53] and also recognition that the Act would not work, had a belated effect on the growing bitterness of Native Hawaiians.

Notwithstanding the failure of the Hawaiian Homes Commission Act, Native Hawaiians need access to non-marginal land so that the

present marginal economic status of many Native Hawaiians will not force them to leave the islands that once shaped the core of their identity. Already an out-migration is in process. Bernhard Hormann noted that in the 1950's, Native Hawaiians had a net loss of 20,000, primarily to the mainland. Hormann considered this out-migration a favorable sign. "It is not a cause for alarm," said Hormann in 1965. "It may signify as well as certainly contribute to a hopeful breakdown of Hawaiian isolation."[54] Since Native Hawaiian culture has been tied to the land, it is somewhat questionable whether out-migration would have been the first preference had a suitable land base been available.

Because the Native Hawaiian community, as a whole, is one of the poorest ethnic groups, numerous areas in the islands are excluded to them by the fact that they can neither afford to live nor purchase real estate there. Moreover, there has been great pressure to remove the poorer Native Hawaiian community from certain areas in the islands. What is advanced as "progress" much too often means to the Native Hawaiian "forced removal" from land which they utilized to build homes and make a living, or on beaches which traditionally had been sites for open camping.[55] Such forced removal occurred in January 1983, at a time Native Hawaiians were celebrating the Ninetieth Anniversary of the Overthrow of the Monarchy. The state government, against the wishes of residents on Makua Beach, leveled the area and people who had lived there for several years, in accordance with the traditions of Hawaiian customs, were apprehended for opposing the law. Progress called for a State Park; Native Hawaiians, in turn, proposed a Hawaiian-style park or village which will allow residents to remain on the beach.[56]

The struggle for control of the land and the Native Hawaiian approach to the land perhaps can be best understood from the controversy raging over Kaho'olawe Island (which is the smallest of the eight major islands). The struggle pits the military establishment (which argues that it needs control of the island for the conduct of military exercises) against Native Hawaiians who object to such exercises and argue, on the one hand, that such use is a great misuse of the land and, on the other hand, that Kaho'olawe has a

religious significance and that its bombing is a flagrant disrespect of Native Hawaiian spiritual values.

In a way, Kaho'olawe has served as a challenge, if not a rallying point for young Native Hawaiians in their search for reidentifying with things Hawaiian.[57] In 1976, a group of Native Hawaiians "invaded" Kaho'olawe and the organizer of this "invasion" reported that he was flooded with calls from old and young Native Hawaiians who have awakened to the fact that something has to be done to get the military to stop its abuse of Kaho'olawe."[58]

There is evidence that Kaho'olawe once served as an important religious center for Hawaiians. In 1982, the entire island was placed on the National Register of Historical Places. Several "kupunas" testified before a State Committee that "the island was designed as a 'depository' of the Hawaiian chain. The island itself was divided in ancient times so that every other major island in the chain had a central deposit point on Kaho'olawe....in other words, Kaho'olawe performed a sacred function...."[59]

The military use of Kaho'olawe dates back to 1942. The organized effort to stop the desecration goes back only to the late 1960's. The Taos Pueblo Indians experienced over a longer period of time a similar struggle involving sacred lands. The area which encompassed their sacred lands around Blue Lake, New Mexico had been transformed into a National Park. Although the Taos Pueblo Indians claimed that 130,000 acres had been seized illegally, their main concern focused on the return of the area containing the ancient shrine and holy places of their religion.[60]

Kaho'olawe and Blue Lake symbolize the lack of sensitivity on the part of Anglo culture to values of indigenous people. In the case of Kaho'olawe, the insensitivity is maddening. It is safe to conclude that it is the only listing on the National Register of Historical Places which is being bombed. To aggravate the matter, it is also bombed by foreign military forces at the invitation of the United States. As one individual said, "It comes down to a question of priorities: The cost of more expensive training versus destruction of the remaining remnant of a culture."[61]

A woman appearing before a Congressional committee called Kaho'olawe "our temple." She added:

> I want to see it returned back to Hawaii as a temple for retreat to worship God. It is the only place that still remains to be in its primitive condition....We are entitled and want this Island of Kaho'olawe for our religious beliefs.[62]

Another woman said:

> I come before this committee without any formal testimony, but to express my thoughts as a Hawaiian having made it in the Western civilization and trying to discover what culture, what heritage I came from.
>
> During the weekend of Labor Day I had a chance to go the Island called Kaho'olawe....There I had a chance to experience the spirit of the land, and I also had a chance to share in some folklore, which is important....I thought to myself, the culture, the heritage of a group of individuals prior to 200 years ago, must have been something great; and I asked whether the benefits of this particular piece of legislation would allow the study to be disseminated and help people like me who are still searching for roots understand our own history and culture.[63]

Loss of land psychologically has separated the Native Hawaiian from a fundamental source which fashioned his identity. In this context, no less than in the context of economics and legal issues, the merits of Native Hawaiian land claims should be examined.

An Outsider's Culture

If the traditional Hawaiian culture is basically an object of study rather than a body of living experiences and, if the previous contact culture no longer fits, where then is a culture for a people? A small but perhaps highly influential segment of the Native Hawaiians has made the complete cultural leap into the transplanted Anglo culture. This alternative has always been the driving force of Anglo acculturation. Another segment found refuge in stage-Hawaiian, while other elements remain alienated either in a hostile manner or through passive withdrawal.

Notwithstanding these diverse patterns, the overwhelming need for a cultural base survived and created a new cultural form, namely, "local." Not all Native Hawaiians were drawn to a "local" identity. "Local" as a culture is not solely rooted in efforts to find relief from the dominant haole culture. Rather, it can be seen as an adjustment to the situation of cultural diversification and rejection of the haole's culture. With this notion of rejection and resistance, it is not surprising that "local" culture reinforces those attitudes and behaviors which preclude "making it" in the dominant Anglo culture. The "local" image springs from the "Kanaka," that is, from the Native Hawaiian, part stage, part alienated, given to the pidgin form of English. "Local" claims to symbolize an in-group.[64] It speaks for Hawaii and seeks self-determination. In this context, "local" renders haole culture as out-group or non-Hawaiian.

"Local" has an assimilating tendency which works against preservation of a basic Native Hawaiian content. "Local" serves as a cultural net into which members of all ethnic groups can belong. As a present day alternative to the haole culture, the question to be raised is to what degree will "local" reflect Native Hawaiian values and whether or not it will split the Native Hawaiian community in its quest for a unifying identity.

The counter-culture aspects of "local" have caused other Native Hawaiians to fashion a "born again Hawaiianness,"[65] or perhaps better labeled, a Hawaiian Renaissance. Recently, young Native Hawaiians have decried that their elders, who have already lost contact with their indigenous roots, failed to teach them the Hawaiian language and cultural tradition.[66]

On closer analysis it may be shown that "local" and "renaissance" reflect two movements associated with different social classes or economic levels. For example, a student at the Kamehameha Schools wrote: "[illegible] is living at a time when people are proud to be Hawaiian. I feel very lucky to be living in the Hawaiian Renaissance."[67] This student may represent an elite and, perhaps, also a vanguard to forge a place for "Hawaiianness" in the Hawaiian Islands without it being "stage" or "counter." Another student wrote:

> Today being a Hawaiian is the in-thing. Everybody wants to be Hawaiian. Before, most Hawaiians were ashamed of the fact that they were Hawaiian....I am glad that the Hawaiian Renaissance helped to put back pride in being Hawaiian and the culture is alive again.[68]

But a large segment of Native Hawaiian youths are not in contact with this Renaissance (unless the tokenism reflected in "Hawaiian studies" is taken for hard-core renaissance). It can be

expected that "local" and "renaissance" will clash. At first glance the confrontation appears to be between the opposing tendencies of assimilation ("local") and plurality ("renaissance"). But the actual issue at stake may be the degree to which "resistance" permits "local" culture to remain open to the influence of "renaissance." If the resistance component within "local" hardens the path, those within that culture most probably will remain outsiders. In the final analysis, the resolution of this clash may define the direction by which Native Hawaiians will attain the identity which they seek.

This search to regain a lost identity flows from a need to transcend the stranglehold of the dominant culture as well as the failure of contact culture to thrive in the twentieth century. A Native Hawaiian college student voiced the challenge:

> You mainlanders come over here and try to run the show, and we are supposed to be your servants. The trouble is, we are slaves to your system. You've taught us to need your money and your conveniences, but we'll never respect you.
>
> I get plenty burned up when I think of what's happening to my brothers and sisters and our island. But we still have our pride.[70]

Search for Identity

The loss of status, pride in culture, language, and land, and the sense of cultural emptiness caused by the failure of the nineteenth-century contact culture to survive the demise of the Hawaiian Kingdom, combined with an inability to revert to the older indigenous culture, and emergence of an outsider's sub-culture, as a whole, set in disarray those remaining foundations on which Native Hawaiians could establish their identities.

The crippling effect which the loss of identity generated should be considered the foremost harm perpetrated on the Native Hawaiian and one equal in intensity to the loss of sovereignty. From a people who once had a positive cultural identity, Native Hawaiians became a people adrift from their cultural sources and in succinct terms, became a conquered people.

The psychological price for the loss of identity has been high. No government, no law, no theory can truly provide restitution in this matter. If a viable identity is to re-emerge (which can

encompass the majority of Native Hawaiians regardless of the quantum blood configuration), only they themselves can actually accomplish it.

More recently, interest has been attracted to what is being called a Hawaiian Renaissance. Theoretically, such a Renaissance requires a cutting through the "resistance" found in "local" culture, as well as "cleansing" of the contact cultural overlay grafted during the nineteenth century in order to arrive at a more basic "Hawaiianness." It also needs to advance forward those values and practices that can hold their own against the style of life of the late twentieth century. Such is the promise for refinding a viable identity. In this regard, the going-back-to-advance-forward can be a less arduous task if the Federal Government were to acknowledge its role in the cultural loss Native Hawaiians experienced and, in good faith, provide some form of restitution. Then the going-back process would not entail a bitterness to prove "something." Then the Renaissance could be revitalizing and a true healing experience. The issue of restitution might also loosen the resistance quality which ties many Native Hawaiians to the "local" culture and which keeps them "outsiders" in their own land.

Addendum: "Tri-culturation"

The place of Japanese immigration in the cultural trauma associated with the demise of the Hawaiian Kingdom is subject to debate. Actually it is a legacy of the nineteenth century. In 1884, the Japanese accounted for only 0.1 percent of the total population, but in 1920, they accounted for approximately 43 percent.[71] In the same period, the Native Hawaiian population decreased from 47 percent in 1878, to approximately 13 percent in 1920.

The relation between Japanese immigration and the overthrow of the Kingdom is joined by the vested interests that urged Japanese immigration and overthrew the monarchy. During his voyage to Japan in 1881, King Kalakaua requested immigration of Japanese to Hawaii to work on the plantations. The Japanese government finally agreed in 1886. Of the 180,000 Japanese who immigrated, approximately 85 percent immigrated in or after 1898 (the year of the annexation).[73]

The economic and political rise of the Japanese community in Hawaii, while a thrilling accomplishment of ethnic plurality which validates United States democratic principles, nonetheless must be viewed as detrimental to the Native Hawaiian. Had a Native Hawaiian government survived, in whatever form, Native Hawaiians undoubtedly would have fared better vis-a-vis the Japanese immigrant than what actually occurred. At worst, the situation in Hawaii might have developed similarly to that in Fiji where the indigenous Fijians are competing economically and politically on a somewhat equal basis with the immigrant Indians. The circumstances are vastly different in Hawaii where the present Japanese community effects political and economic influence and Native Hawaiians remain powerless.

By the 1960's, Japanese economic and political gains capped the omnipotence of the Anglo society, and the former's ethnic values penetrated many organs of government, education, and social services. During this time, the tourist from Japan became the "sacred cow" of the tourist industry and an important factor in the state's finances. "Tokyolulu," "Hawaiiku," or "Jawaii" may be said as jokes, but they reflect the sense of accomplishment of a minority that by dint of supreme efforts finally "made it." But in this upward movement, Japanese racial prejudice toward the Native Hawaiians also manifested itself, particularly in the school system. Allan Howard provides the following observation:

> The conflict is accentuated by the fact that the State of Hawaii has a centralized school system, administered out of Honolulu, and dominated by persons of Caucasian and Japanese-American ancestry, few of whom are sympathetic with the Hawaiian-American pattern. Indeed they are inclined to associate it with an avoidance of parental responsibility and to label it as "cultural deprivation." As a result, despite the fact that "Aina Pumehana" parents express a great deal of concern for their childrens' education, they are discouraged from actively participating in the formulation of school policies by the control administration. The school is therefore very much an alien institution in the community.[74] (Emphasis added.)

It may be technically incorrect to claim that the Japanese succeeded at the expense of the Native Hawaiian. From a Japanese viewpoint, it might be more correct to conclude that they were socially better equipped to make the best of the opportunities which were offered. For example, in 1970, 46 percent of the enrollment at the University of Hawaii (Manoa Campus) were of Japanese ancestry, while 4 percent were Native Hawaiians.[75]

This penetration of Japanese cultural values in the society makes tri-culturation a reality at least for Native Hawaiians. (There are indicators--increasing brides of Japanese ancestry out-marrying, and decreasing Japanese population percentage of the state's total population[76]--to suggest that the Japanese of Hawaii may go the way of the Irish immigrants of New York and Boston and that their dominant position might be temporary.) By its stunning success, the Japanese community may soon lose its ethnic character. Although it may bring little consolation, the failures of the Native Hawaiian may bring little consolation, the failures of the Native Hawaiian may mean the ultimate survival of a lifestyle that maintains its ethnic character. In refusing to stew in the Anglo melting pot, Native Hawaiians perhaps will survive ethnically, and not just in history, novels, and T.V. commercials. But, for the present, tri-cultural adds to the cultural trauma which the Native Hawaiian experiences, and if no socio-economic reprieve occurs, the promise of ethnic survival may be unwarranted. Howard provides some insightful observations:

> Our research continually affirmed that an overwhelming proportion of the people find considerable gratification in their lifestyle. Indications are that if wages were higher and more resources available, most would continue to invest in social capital and a lifestyle similar to the one they are currently leading. The Polynesian-Hawaiian lifestyle is not dead--yet! But it is true that it is in grave danger from the twin threats of an economic system that is placing more and more Hawaiian-Americans among the ranks of the impoverished, and a dominant culture that has demonstrated little tolerance for genuine diversity.

Concluding Statement

The preceding sections outline the content of what conceptually can be called the Hawaiian post cultural-trauma syndrome. The characteristics of this syndrome are manifested uniquely by the individual (as in the case of the rape victim), but perhaps there are also collective characteristics to include: Feelings of vulnerability and helplessness; loss of sense of direction as a people; feelings of inferiority vis-a-vis members of the dominant culture and, a generalized, collective resentment.

The contact culture of the period prior to the overthrow, regardless of its inner tensions, sustained Hawaiian features. Had the Kingdom survived, its contact culture may have absorbed other aspects of the Anglo culture, but it is questioned whether that process inevitably would have produced the overwhelming catastrophic experience which the overthrow and the annexation generated. Regardless of what may have occurred, the actual overthrow, conceptually, can be understood (apart from the emotional level) as the pivotal event which evoked the final trauma, and the collective behavior of Native Hawaiians after that event perhaps can be better understood by viewing such behavior in terms of a post trauma syndrome model. Emotionally, these behaviors may be better understood in terms of Native Hawaiians becoming a conquered people.

PART III
THE MORAL LEGACY

The Call for Justice

When members of the "coup d'etat" in 1893 demanded that Queen Lili'uokalani resign, she chose to yield her authority to the United States and not to the Provisional Government "until such time as the Government of the United States shall, upon the facts being presented to it, undo the action of its representative and reinstate me in the authority which claim as the constitutional sovereign of the Hawaiian Government."[78] With those words, Queen Lili'uokalani placed the future of her Kingdom and of her people on the moral conscience of the United States.

President Grover Cleveland, to a large extent, vindicated her trust on the honor and justice of the United States. After reviewing an in-depth study of events regarding the overthrow, he came out forthrightly in December 1893, denouncing the overthrow of the monarchy, rejected pleas for annexation, and demanded restoration of the monarchy.

> If a feeble but friendly state is in danger of being robbed of its independence and its sovereignty by a misuse of the name and power of the United States, the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation....I instructed Minister Willis to advise the queen and her supporters of my desire to aid in the restoration of the status existing before the lawless landing of the United States forces at Honolulu.[79]

Despite President Cleveland's denouncement, he demanded acquiescence to a general amnesty for the conspirators in turn for the United States involvement. The Queen rejected such dictated terms, for, if accepted, they would leave in question the authority vested in her sovereign rule. There is no question that the United States, if in a similar situation, also would have rejected general amnesty for those wishing to overthrow the government.

Although condemning the overthrow and rejecting annexation, the Cleveland administration let matters rest. The Provisional Government solidified its position in Hawaii, and continued its pursuit of

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annexation, while the Queen and her subjects awaited the United States' demonstration of its unequivocal justice. After President Cleveland left office, the new administration, with no sense of moral responsibility and on the wave of political expansion, favored annexation. In the throes of the Spanish-American War, shortly after the capture of Manila in the Philipines, the United States annexed the Hawaiian Islands, not by treaty, but by a Congressional Resolution.[80]

Moral Responsibility

The Queen's call for justice and the President's reply are clear. But does the failure of the Queen to acquiesce to the President's terms of general amnesty undermine the moral issue regarding the overthrow of the monarchy? Does failure to acquiesce invalidate the lawless use of the name and power of the United States? If not, then what moral responsibility should the present government adopt toward the people who lost their sovereignty because of this lawless use? Should the case of moral responsibility rest solely on legal interpretations, such as they may be, or can the findings of cultural analyses also have merit in assessing moral responsibility?

That a people of a sovereign state are conquered (in one way or another) or culturally dispossessed, causes no startling ripple in the history of humanity. The startling situation is the willingness of a conquering nation to review its past and effect a policy to amend prior misdeeds through some form of restitution. In this regard the United States offers a new twist in the history of human rights: A government does have a moral responsibility regarding its prior actions.

The case for moral responsibility and restitution is aptly presented by Ronald Amundson:

> Citizenship in a nation is something like membership in a corporation. Our taxes still go towards paying off debts which the government acquired before we were citizens, and perhaps even before we were born. Similarly we might find ourselves obligated to repair the wrongs committed by representatives of the government even when the acts were committed long ago.
>
> If these thoughts on reparation are right, then we have only seen that in some cases reparations are justified. But how can we decide which cases are justified ones?

> The most important point is that there must have been a wrong committed, and that this wrong must have been committed by a representative of the government....
>
> The second point is that whatever was unjustly taken from the past generation must be something which would have benefited the present group to be awarded reparation....If the old wrong doesn't have present effects, then there is no way to repair it.[81]

The question which is now pertinent is whether the injustice denounced by President Cleveland is somewhat reparable today. In the sweep of history, similar injustices can easily be discarded. Clearly the United States trampled on the rights of indigenous people while on its path to political and economic greatness; such is the path to all such "greatness." But there is another greatness to the United States, beyond political exploitation and economic greed, and found in the sense of justice which has been the hallmark of the United States Constitution.

That such justice exists is evident from the following statements made by elected Federal Officials:

> If any Indian tribe can prove it has been unfairly and dishonorably dealt with by the United States it is entitled to recover.[82] (Congressman Karl Mundt, 1946.)
>
> Proposed Congressional Resolution: Whereas it is recognized by Congress that American Indians and Alaskan Natives suffered from adverse economic health, education, and social conditions which prevent them from sharing equally in the great social and economic advancements achieved by our Nation....
>
> (4) American Indian and Alaskan Native property will be protected; that Indian culture and identity will be protected.[83] (Senator McGovern, 1966.)
>
> The first Americans--the Indians--are the most deprived and most isolated minority group in our nation. On virtually every scale of measurement--employment, income, education, health--the condition of the Indian people ranks at the bottom. This condition is the heritage of centuries of injustice. From the time of their first contact with European settlers, the American Indians have been oppressed and brutalized, deprived of their ancestral lands and denied the opportunity to control their own destiny. Even the Federal programs which are intended to meet their needs have frequently proven to be ineffective and demeaning.[84] (Emphasis added; President Nixon, 1970.)

Failure to enforce the law of the land also may be considered a prior injustice if such occurred because Federal representatives

were derelict in their duty. Unlike the Native American who advanced claims based on legal precis, the Afro Americans have argued their case for moral restitution on the failure of the government to effect equality as secured by the law of the land.

Although the war between the states was fought largely over the issue of slavery, the social impact of the war did not truly occur until a century later. The war by itself did not bring the Afro Americans into the mainstream of the nation's social fabric. Rather, the great leap forward of the 1950's and 60's rode the tide of the morality linked to the question of civil rights. That this great leap is not yet complete signifies the difficulties which accompany social change.

A major breakthrough for Blacks regarding the protection of their civil rights occurred in 1954, when the National Association for the Advancement of Colored People brought "Brown vs. Board of Education" to the Supreme Court. The Court declared that segregation as practiced "is a denial of the equal protection of the laws."[85] From then on, "sit-ins" occurred, followed by freedom marches of the 1960's, vote-ins, Black Muslim and Black Panther militancy, the assassination of Martin Luther King, street riots, bussing, and affirmative action. In this period of time, the Federal Government enacted laws and established programs to assist Blacks.

Was such assistance compensation or reparation? Amundson distinguishes between the two: Compensation "is motivated by the moral principle that everyone should have an equal opportunity for the benefits the society provides."[86] Reparation, in contrast, "is to repair the effects of an injustice."[87] In the case of the Blacks, both compensation and reparation fit. But perhaps the classification should lean toward reparation. Had not the injustice previously occurred, the present situation might have been more positive. This is speculative. However, there is some ground upon which to argue that the plight of Blacks (as well as Native Americans, and Native Hawaiians) can be traced to the injustices perpetuated (either through volition or omission) on these people by representatives of the government or its policies. Had such injustices not occurred, then their socio-economic position would be

simply an issue for compensation, that is, to ensure that they have equal opportunity for the benefits provided by the greater society.

Because Blacks have advanced no land claims, the issue of reparation, in their case, may not be apparent. But the issue is not semantic, that is, whether the programs favoring Blacks are forms of compensation or reparation; the issue is moral (a feature of both). By dint of their long efforts, Blacks caused the Federal Government to accept a moral obligation. Similarly, by dint of this effort, the United States has also accepted a moral obligation regarding injustices perpetrated against other groups of people.

The situation with Mexican Americans is less clear. These inhabitants of the Southwest, whose nation was defeated in war, were absorbed into the United States in a manner not too unlike what occurred with Native Hawaiians after annexation. To date, the Federal Government has demonstrated little moral obligation to address the Mexican land grant claims.[88] If Mexican Americans have not had their day in court, it is fair to advance that a part of the Federal legislation has been directed to improve their socio-economic situation. In this situation the issue may lean more toward compensation than reparation.

The strategies employed by the Blacks as well as the meager, but clear, gains which they achieved in civil rights, undoubtedly encouraged the Native American move to improve its organizational capability and refocus its efforts to gain redress from the trail of broken treaties.[89] It is not clear whether the Native American and Blacks, compared to the Mexican American, have drawn more attention because they have borne injustices over a longer period, or because their claims have merit, or because of better organization, or because their cases have touched more intensely the moral conscience of the nation. At the same, all three (Indians, Blacks, and Mexicans) rest their demands for restitution on a moral legacy issuing from prior injustices.

These claims based on a moral legacy would fare poorly were the government not receptive (regardless of the reasons). For reasons that are difficult to accurately document, the United States after World War II reversed its prior attitude toward moral responsibility for those people absorbed unwillingly into the nation. This change

may have been the consequence of a gradual growth of social awareness tied to a period of general economic prosperity. Such a climate facilitated Federal leaders to accept, however reluctantly, a moral obligation toward those people who unwillingly became members of the nation, and upon whom prior politics had dire effects.

The willingness, no matter how grudgingly expressed, of the Federal Government to perceive a moral obligation sets the background for a review of Native Hawaiian claims for restitution. Both the Native American and Afro Americans have demonstrated that prior mistreatment left a moral legacy and one which the Federal Government has addressed.

It is too late for the Federal Government to reject moral responsibility regarding restitution for prior injustices. For Native Hawaiians the issue is to keep the Federal Government awake to its moral responsibility and clearly document the injustices committed against them. Fortunately, the sense of justice in the United States today precludes a return to prior practices of ignoring or refuting the validity of claims advanced by indigenous people for injustices which were previously committed.

The Federal Response to Its Moral Responsibility Toward Native Hawaiians

The overthrow of the Hawaiian Kingdom by haole businessmen committed to annexation with the United States occurred at a point in history when the United States had embarked on its own wave of imperialism. The issue in question eighty-five years after annexation is not whether the Native Hawaiian has benefited from annexation, but whether annexation in itself was morally just. President Cleveland's message to Congress in 1893, substantiated both the immorality of the overthrow of the monarchy and the illegality of any subsequent annexation by the United States.

President Cleveland's opposition to the annexation and the Queen's claim on the conscience of the United States disappeared in the euphoria of "manifest destiny." The Territorial Administration no doubt considered itself serving Hawaiians well by facilitating residents with economic means to invest capital and exploit the resources of the land. The "empire builders" of Hawaii also felt that they "were creating a prosperous and well-managed Hawaii."[90]

Approximately a decade after annexation, the court ruled in "Lili'uokalani vs. United States" (1910) that Queen Lili'uokalani had no claims to the crown lands for these were considered part of the government lands[91] which the Republic of Hawaii transferred to the United States. This judgment reflected no sign of moral responsibility. The first note of moral responsibility perhaps surfaced in the enactment of the Hawaiian Homes Commission Act (1920).

Prince Kuhio, the Territorial delegate to the United States, campaigned for "land for Hawaiians." But in actuality "it was an act of such political perfidy," so wrote Theon Wright, "that one has to go back to the record of Indian Affairs in the United States Department of the Interior--the arm of government which was also responsible for Hawaiian affairs--to find a parallel performance."[92]

Clearly some Congressmen were touched by a sense of moral responsibility for what was happening to the Native Hawaiian. John Wise, a senator from Hawaii, assisted Prince Kuhio in presenting the case of "land for Hawaiians" before Congress. One mainland Congressman claimed that the "purpose of this bill is to permit people of Hawaiian blood to again get possession of land in Hawaii."[93] If Wise had for his primary intent "spellbinding" rhetoric, Kuhio truly believed that the Hawaiian Homes Commission Act, by returning Native Hawaiians to the tilling of land, would cause them to survive as a people.[94]

Morally, the United States with this Act failed the test. This Act revealed that Hawaiian concerns were not legitimate. In fact, there were problems. If the underlying attractiveness of the Hawaiian Homes Act was not the rehabilitation of Native Hawaiians by relocation in reservations, it nonetheless suggested the attitude that the Hawaiian could be made a useful member of society "by removing him from society, by making special, exclusive provisions for his welfare to protect him against the ruinous competition of more aggressive races--white and yellow."[95]

This is not the place to outline the full measure of the "perfidy" committed through the Hawaiian Homes Act. On objective

terms, the Act failed in realizing the "stated" objectives. By 1975, less than 15 percent of the land under the Commission's jurisdiction was under lease to Native Hawaiians.[96]

Professor Michael Haas considered the Act a conscious attempt to segregate the Hawaiian, perhaps in a modified form of the Indian Reservation. What the Act means, opined Haas, is "that the U. S. Congress and Territory of Hawaii agree that the solution of the Hawaiian problem, not unlike the manner in which the Black problem was being conceived, was to segregate Hawaiians from the mainstream of development in the process of the urbanization of the 20th Century."[97] If the Act reflected an effort to provide restitution or constituted an indirect reply to Queen Lili'uokalani's request for justice, it indeed proved disappointing. From the beginning, the program was doomed for various reasons, one of which was that "arable land of proven quality was specifically excluded from the program."[98] So much for Federal moral responsibility through the Hawaiian Homes program!

It may be argued that the Federal Government met its moral responsibility through the Admissions Act which made Hawaii the 50th State of the United States. The crown and government lands which remained were transferred to the State Government to be held in trust for Native Hawaiians and the general public.[99] Meanwhile, the Federal Government retained title to approximately 400,000 acres of which approximately 287,000 acres were identified for defense and related activities. The State became custodian of over 1,000,000 acres.[100]

The assumption that the State now has responsibility regarding any moral legacy stemming from the overthrow of the monarchy and annexation perhaps was vindicated in 1978, during the State Constitutional Convention, two results of which were: That Native Hawaiians were entitled to a pro-rata share (20 percent) of the revenues from ceded lands,[101] and the establishment of the Office of Hawaiians Affairs to serve, among other things, as a receptacle for possible reparation from the Federal Government.[102] The inclusion of this purpose clearly infers that, from a State point of view, the Federal Government still has a moral responsibility regarding Native Hawaiians.

The Federal Government has given signs that it entertains the possibility of moral responsibility which might require reparations. While not action upon the proposed Hawaiian Native Claims Settlement Act (1974), Congress did hold hearings in 1978 and 1979, concerning the establishment of a Native Hawaiian Study Commission.[103] In December 1980, Congress passed an act establishing the Study Commission.

Native Hawaiian Concern with Restitution

Regarding its policy toward restitution, the Office of Hawaiian Affairs listed as its first principle "the acknowledgement of a wrong." Specifically this principle states:

> The first step towards reparation should be a clear acknowledgement of the United States' responsibility for the overthrow of the Hawaiian native government in 1893. Such acknowledgement should come in the form of a simple statement coupled with a recognition that the wrong gave right to a duty and a commitment to make amends for that wrong.[104]

On face value, this principle may appear intransigent. In actuality, its source springs from an aspect of Native Hawaiian culture, namely, the practice of "ho'oponopono." In brief, ho'oponopono means "to make right, to correct, restore, and maintain good relationships among the family."[105]

There can be no progress until things are made right. And a true intention to correct wrongs is the necessary first point in making things right again. It further requires a full and honest acknowledgement (confession) of error. The second point is the willingness to amend the wrong that has led to conflict. Viewed from the practice of ho'oponopono, the Office of Hawaiian Affairs' first principles is the foundation for subsequent discussion. The practice of ho'oponopono is utilized because a wrong has been done. Nothing can progress until that wrong is acknowledged.

Native Hawaiians based their perception of the party in the wrong from the trauma they have suffered and from President Cleveland's message to Congress in 1893. What annoys Native Hawaiians, as they have increased their organizational skills and "arguing position," is the head-in-the-sand behavior of Federal administrations as though such behavior denies the reality of President

Cleveland's condemnation of the United States' involvement in the overthrow of the Hawaiian nation. Without this clear acknowledgement from the Federal Government, there can be no trust to proceed toward the second step of restitution. In turn, the Federal Government may mistrust the intentions of Native Hawaiians--their call may be too high--and similar to a poker player, may decide to stay "pat" with an ace in the hole (Federal funds) until a more opportune time arrives.

From the perspective of the Federal Government, it may view itself in a back-against-the-wall mental set. For this reason, Native Hawaiians should also participate in negotiations with the spirit of ho'oponopono, that is, with the intent of setting things right. And that involves awareness of the motivations beneath their position and sensitivity toward the misgivings the Federal Government may have about its "what after I admit I am wrong" complex.

In 1970, President Nixon spoke of "balanced relationship between the United States Government and the first Americans."[106] Whether the relationship be with Native Americans or Native Hawaiians, no balanced relation is possible unless the Federal Government recognizes the premise of their position. If "balanced" relations is the goal, the stronger party should take measures to raise the other party to a level where "balanced" is substantive rather than rhetorical. From the Office of Hawaiian Affairs' point of view, acknowledgement of wrong is the key to the establishment of "balanced" relationships.

The purpose of the preceding has not been to argue the case for restitution, but to view restitution in the context of Native Hawaiian cultural values. Restitution is an essential concern of Native Hawaiians. Restitution for land claims may involve cash settlements or return of land for which the Federal Government has "clear" title. But what about restitution for wrongs which caused irreparable harm, such as loss of dignity? Can any form of restitution fit the harm which resulted from the cultural trauma associated with the demise of the Hawaiian Kingdom?

For a rape victim, her personal trauma is irreparable. Incarceration of the rapist, however, provides a form of restitution. Recently the Federal Government attempted a form of restitution for the collective trauma experienced by Vietnam veterans when it dedicated Veterans Day 1982 to the Vietnam veteran and a memorial was raised to honor the veteran. And what form of restitution is possible for the cultural trauma Native Hawaiians have suffered? Perhaps restitution rests in the Federal Government admitting that a wrong has been perpetrated collectively against the Native Hawaiian. Amundson's analysis in this matter has merit:

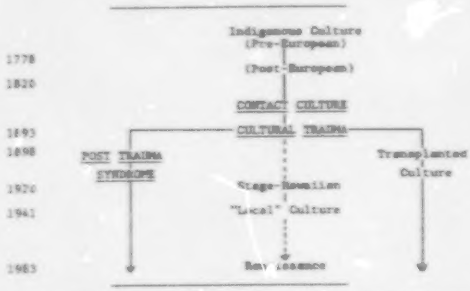
> The loss of dignity of a generation is an irreparable harm. The best that can come from the government concerning an irreparable harm is the admission that a wrong was done. Such an admission ought to be demanded from the government, not only by the descendants of the wronged group, but by anyone interested in fairness. The fact that this admission has no financial value doesn't mean that it is easy to get. Ironically, it is usually easier to get money from a government than to get an admission of wrongdoing, even for a hundred-year-old wrong.[107] (Emphasis added)

Perhaps Amundson falls short in the manner in which President Cleveland fell short. The President demanded acquiescence to his demands for a general amnesty. Amundson's inference that only a verbal admission of wrong-doing may be needed clears the air, so to say, but fails to bring "honor." More importantly, the cultural trauma did not just include loss of dignity, it also involved the loss of self-worth through the lack of sensitivity on the part of the Federal Government (and its officials) to Hawaiian cultural values. Is such loss irreparable? In a way, yes, but, in another, no. In any case, the Federal Government can take measures in the present to ensure that its actions do not continue to debase these values. Here the form of restitution may be direct. For example, restoration of Native American control over the sacred lands of Blue Lake in New Mexico makes amends for the profanation of these lands. Similarly, restoring Native Hawaiian control over Kaho'olawe Island makes amends for previous (and continuing) debasement of Native Hawaiian cultural values.

For a people who have experienced post cultural-trauma syndrome, the question of restitution is no light matter. In brief, the form of restitution and the manner in which presented may be critical in working through the crippling effects of this syndrome. An admission of wrongdoing is the minimal form of restitution without which true resolution of the syndrome does not really occur.

CONCLUSION

The conceptual models of contact culture, cultural trauma, and post trauma syndrome facilitate the psycho-cultural study of the demise of the Hawaiian Kingdom. These models permit the following scheme:



A contact culture emerged in Hawaii after 1830 as a result of missionary and trading activities. An indigenous cultural base remained but, over time, the Native Hawaiian, in what may be considered a transplanted manner, became removed from the original sources of the indigenous culture. Although a culture existed at the time of the overthrow, this does not imply that the contact culture had stilled the yearning to revert to the "purer" old ways. When the overthrow occurred, however, it was no longer just a simple matter to "recover" the old, indigenous ways.

The contact culture, itself, accounted for part of the cultural trauma which appeared after the overthrow. Had the British or Japanese overthrown the Hawaiian Kingdom, it is rather doubtful that a similar cultural trauma would have erupted. Theoretically, the contact culture in such a hypothetical situation would have sustained Native Hawaiians in the post-overthrow period. The United States' connection with the overthrow and subsequent annexation caused an implicit, if not outright, resistance to the contact culture. When the donor became conqueror, a sense of betrayal invalidated the contact culture.

Had Native Hawaiians been able to maintain the original indigenous culture in face of Western pressure, the demise of the Hawaiian Kingdom may not have been so traumatic, for they would have had a validated cultural system. The failures of the indigenous culture to survive the missionary and mercantile influences and of the contact culture to survive the overthrow, combined with resistance to participate in the transplanted culture of the donor-turned-conqueror, outlines the structural features associated with the cultural trauma experienced after the overthrow of the monarchy.

In the period following annexation, Native Hawaiians caught in the collective post cultural-trauma syndrome adjusted to the transplanted culture in the forms of "stage-Hawaiian," "local," and "Renaissance." But none of these adjustments has achieved a psycho-cultural stability.

The psycho-cultural contents connected to the trauma which the overthrow triggered, when viewed individually, carry their own weight. But when viewed collectively, they reveal the profundity and severity of the Native Hawaiian experience and indicate the scope of the cultural trauma.

The post trauma syndrome concept helps explain Native Hawaiian behavior in the period which followed annexation; it also helps in the discussion of remedial action. Why one person develops a post trauma syndrome, while another experiencing the same trauma does not, defines any precise explanation. Personality characteristics and the nature of personal coping strategies play a part. But also important are external variables such as support systems and societal acknowledgement of the trauma's existence. An operational support system supplies the victim with a nurturing background with which he or she can work through the trauma. The idea of restitution to amend any injustice linked to the trauma engenders trust and infers a future "free" of the trauma. After annexation, the Native

Hawaiian support system, i.e., the contact culture, failed to nurture any trust, and the idea of restitution dimmed in the face of the donor-turned-conqueror recalcitrance to acknowledge any responsibility that injustice had been committed. Accordingly, Native Hawaiians, collectively, developed a post cultural-trauma syndrome which they suffered through alone and without solace.

Restitution should be considered an essential feature in working out a post trauma syndrome. While the rape victim might benefit when the form of restitution is individualized, such as the imprisonment of the rapist, the form may have to be collective when the post trauma syndrome has a collective aspect. The post trauma syndrome of the Vietnam veteran suggests a collective feature. Even those without any clinical symptoms share a collective pathos. In 1982, the United States implicitly acknowledged its role in the "injustice" of not honoring the Vietnam veteran. To make amends, the Federal Government dedicated Veterans Day-1982, to the Vietnam veteran. At the same time a memorial was dedicated to honor Vietnam veterans collectively. This form of restitution, although symbolic is nonetheless restorative.

The demise of the Hawaiian Kingdom, with the concomitant loss of status, cultural pride, language, land and identity, and subsequent development of a collective post trauma syndrome, indicates the basis for the acknowledgement of a moral legacy. However, the case for moral responsibility can rest solely on President Cleveland's message to Congress, condemning the overthrow and rejecting annexation on the immorality of the actions.

If moral legacy is not refuted, the idea of restitution is more complex. Restitution springs from the merit of the case and willingness to act in good faith to make amends. Neil Levy went to the heart of the matter when he wrote: "Compensation to indigenous people is essentially an ethical rather than a legal one."[109]

Regarding Hawaii, what forms of restitution are in order? What claims have merit? Restitution for the desecration of sacred lands, such as what is now happening to Kaho'olawe, perhaps has merit. Perhaps restitution for the deception of selecting marginal rather than land of proven quality for the Hawaiian Homes program also has merit. Failure to acknowledge a Federal role in the cessation of the Native Hawaiian post cultural-trauma syndrome may warrant restitution. Legal claims which concern the illegal seizure of crown and government lands clearly have merit, but these are not the focus of this paper.

What then should the Federal Government provide, if anything, as restitution for the psycho-cultural "rape" of Native Hawaiians? If the Federal Government acknowledges a moral responsibility, in what form should the restitution be made? Restitution based on the merits of psycho-cultural arguments may solicit little interest or, when compared to the legal battles over land claims, appear less important and thus less likely to achieve momentum to forcefully advance these arguments. With this state-of-the-art fully in mind, the following forms of restitution are guardedly offered:

1. Return of Kaho'olawe (with a total ban on bombing) to the control of Native Hawaiians for religious and cultural uses. Although late in this presentation, it may be appropriate to add a brief commentary here. How can one rationally understand and emotionally feel the desecration occurring on Kaho'olawe? Perhaps an example can serve this purpose. Suppose Germany had occupied Great Britain during World War II and then used Stonehenge, the sacred grounds of an ancient religion, for bombing practice. It is reasonable to conclude that these conquered people of Great Britain would feel an outrage. Some, because of indifference or lack of knowledge, might feel no special resentment about the violation of Stonehenge. But, over time, these same people would understand the violation and join in the collective resentment. A similar situation may exist surrounding Kaho'olawe, an island placed on the National Register of Historic Places and which once held a religious role in the indigenous culture.
2. Establish a Federal Hawaiian Homes Development Fund for the purpose of assisting Native Hawaiians in making better use of the lands in this program. Such funds can go directly to individual housing, co-operatives, or small farming enterprises. Since it appears too late to reassign land of proven quality to the Hawaiian Homes Program, fiscal

support today may balance the previous deception and, more importantly, enable the program to be more successful.

3. Establish a Hawaiian Cultural Trust for the purpose of "re-Hawaiianizing" the Hawaiian Islands. The funds for this Trust can come from the revenues of surplus Federal lands that are returned to the State for the specific purpose of generating funds for this Trust. Such a Cultural Trust, if only in a symbolic way (similar to the role the Vietnam War Memorial can serve in "redeeming," honoring, and taking seriously the Vietnam veteran), makes amends for the cultural trauma Native Hawaiians experienced with the demise of the Hawaiian Kingdom.

As matters now stand, the Federal Government cannot hold that Queen Lili'uokalani's trust in the justice and honor of the United States has been vindicated. No Federal policy will eradicate the ignominy and cultural loss experienced by Native Hawaiians during the past ninety-years. No monetary reparation can wash away the psychological suffering that followed. Restitution, however, does make amends, serves to heal the hurt from prior mistreatment, and fosters the development of trust between both parties.

To argue the case for reparation solely on the merits of cultural losses and psychological harm is highly idealistic and implies a lingering belief that trust can still be placed in United States justice. Were the Federal Government to reject today President Cleveland's condemnation of the injustices committed during the overthrow and his acknowledgement of United States' involvement, then it would fail the moral test which the United States has met over the years and in times of adversity, and which has distinguished it from other imperial powers. Perhaps "only in America," as goes the refrain, can a people expect to move a government toward reparations on moral as well as on legal grounds.

NOTES

1. See in particular R. Adams, *The Peoples of Hawaii*; E. Burrows, *Hawaiian Americans*; L. Fuchs, *Hawaii Pono: A Social History*; A. Howard, *Ain't No Big Thing*; and M. Pukui, *Nana I Ke Kumu* (Look to the Source).
2. E. A. Hoebel, "The Nature of Culture" in *Language and Culture*, p. 35.
3. E. Erikson, *Identity, Youth and Crisis*, p. 37.
4. G. Foster, "Culture and Conquest," in *Viking Fund Publications in Anthropology*, p. 12.
5. E. S. Craighill Handy, *Cultural Revolution in Hawaii*, p. 27.
6. M. Pukui, Vol. II, *op. cit.*, p. 302.
7. E. Bassuk, "A Crisis Theory Perspective on Rape," in *The Rape Crisis Intervention Handbook: A Guide for Victim Care*, p. 122.
8. *Ibid.*, p. 123.
9. Burrows, *op. cit.*, p. 44.
10. Fuchs, *op. cit.*, p. 55.
11. G. Kassebaum, "Ethnicity and the Disposition of Arrests for Violent Crimes in Hawaii," in *Social Process in Hawaii*, p. 35.
12. V. Rubin, "Native Hawaiians Today," in *Breach of Trust? Native Hawaiian Home Lands: A Summary of Proceedings*, p. 6.
13. U. S. Native Hawaiians Study Commission, *Draft Report*, p. 90.
14. R. K. Blaisdell, "Comments on Health Section of Native Hawaiian Study Commission Draft Report," pp. 2, 5.
15. See Rubin, *op. cit.*; U. S. Native Hawaiians Study Commission, *op. cit.*; and Hawaii Association of Asian and Pacific Peoples Statewide Mental Health Conference, *A Shared Beginning*.
16. G. Daws, *Shoal of Time: A History of the Hawaiian Islands*, p. 321.
17. Fuchs, *op. cit.*, p. 156.
18. A. Lind, *op. cit.*, p. 12.
19. T. Maretzki, "The Hawaiians of Hawaii," in *People and Cultures in Hawaii*, p. 46.
20. *Ibid.*, p. 46.

21. Burrows, *op. cit.*, p. 139.
22. Howard, *op. cit.*, p. 152.
23. Burrows, *op. cit.*, p. 141
24. Fuchs, *op. cit.*, p. 85.
25. B. Young, "The Hawaiians," in *People and Cultures of Hawaii*, p. 16.
26. Maretzki, *op. cit.*, p. 45.
27. See G. Kanahele, *Hawaiian Values*.
28. L. Gill, "Basic Community Maladjustments," in *Modern Hawaii: Perspectives of the Hawaiian Community*.
29. W. Wooden, *What Price Paradise?*, p. 60.
30. Fuchs, *op. cit.*, p. 68.
31. U. S. Congress, House, *To Establish the Native Hawaiian Study Commission: Hearings*, p. 46.
32. Howard, *op. cit.*, p. 206.
33. Fuchs, *op. cit.*, p. 72.
34. Howard, *op. cit.*, p. 101.
35. Pukui, *op. cit.*, Vol. II, p. 304.
36. Howard, *op. cit.*, p. 233.
37. Pukui, *op. cit.*, Vol. II, p. 310.
38. E. Kim, *Hawaii Without Hawaiians and Little Japan*, p. 23.
39. U. S. Congress, House, *op. cit.*, pp. 44-5.
40. Pukui, *op. cit.*, Vol. II, p. 285.
41. Howard, *op. cit.*, p. 245.
42. Fuchs, *op. cit.*, p. 264.
43. *Ibid.*, p. 158.
44. Howard, *op. cit.*, p. 224.
45. C. Kluckhohn, *Mirror for Man*, p. 160.

46. Quoted in Ibid., p. 167.

47. Pukui, op. cit., Vol. II, p. 309.

48. Kluckhohn, op. cit., p. 167.

49. Honolulu Sunday Star-Bulletin & Advertiser, "Hawaii for Hawaiians," pp. C 1-2.

50. Office of Hawaiian Affairs, Towards Reparation/Restitution, p. 18.

51. Howard, op. cit., p. 4.

52. T. Wright, The Disenchanted Isles, p. 31.

53. Howard, op. cit., p. 4.

54. B. Hormann, "Hawaii's People in Transition," 75th Anniversary Lectures.

55. Meretski, op. cit., p. 46.

56. Honolulu Star-Bulletin, "State Moves on Makua Squatters," pp. A 1, 7.

57. Hawaii Legislative Committee on Kaho'olawe, Kaho'olawe: Aloha No, p. 246.

58. M. Haas, Politics and Prejudice in Contemporary Hawaii, p. 169.

59. Hawaii Legislative Committee on Kaho'olawe, op. cit., p. 88.

60. A. Josephy, Jr., Red Power, p. 208.

61. Hawaii Legislative Committee on Kaho'olawe, op. cit., p. 244.

62. U. S. Congress, House, op. cit., p. 53.

63. Ibid., p. 58.

64. E. Yamamoto, "The Significance of Local," Social Process in Hawaii, p. 107.

65. Honolulu Sunday Star-Bulletin & Advertiser, "Born-Again Hawaiian," pp. C 1-2, 8.

66. Young, op. cit., p. 16.

67. Kanahele, op. cit., p. 1.

68. Ibid., p. 6.

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69. Wooden, op. cit., p. 145.

70. Yamamoto, op. cit., p. 107.

71. Min, op. cit., p. 132.

72. U. S. Native Hawaiian Study Commission, op. cit., pp. 10, 13.

73. Fuchs, op. cit., p. 107.

74. Howard, op. cit., pp. 222-3.

75. Min, op. cit., p. 145.

76. U. S. Native Hawaiian Study Commission, op. cit., pp. 13, 64.

77. Howard, op. cit., pp. 226-7.

78. J. Blount, Report of the Commissioner to the Hawaiian Islands, p. 120.

79. Honolulu Star-Bulletin, "No to Annexation," pp. A 16-7.

80. E. Joesting, Hawaii: An Uncommon History, p. 246.

81. R. Amundson, Issues of Hawaiian Native Claims, pp. 16-7.

82. N. Levy, "Native Hawaiian Land Right," California Law Review, p. 882.

83. Josephy, op. cit., pp. 63-4.

84. Ibid., p. 213.

85. J. Harris, Black Pride, p. 116.

86. Amundson, op. cit., p. 14.

87. Ibid., p. 14.

88. See W. Moquin, A Documentary History of Mexican Americans, pp. 432-463.

89. See D. Brown, Bury My Heart at Wounded Knee.

90. T. Wright, The Disenchanted Isles, p. 27.

91. U. S. Native Hawaiian Study Commission, op. cit., p. 231.

92. Ibid., p. 31.

93. Fuchs, op. cit., p. 71.

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94. Howard, op. cit., p. 3.

95. Daws, op. cit., p. 299.

96. Levy, op. cit., p. 876.

97. Haas, op. cit., p. 150.

98. P. Sheridan, Hawaiian Homes Commission Act of 1920, p. 20.

99. M. MacKenzie, Sovereignty and Land, p. 47.

100. T. Creighton, The Lands of Hawaii, p. 203.

101. U. S. Native Hawaiian Study Commission, op. cit., p. 357.

102. Ibid., p. 358.

103. See U. S. Congress, House, op. cit.

104. Office of Hawaiian Affairs, Towards Reparation/Restitution, p. 4.

105. Pukui, op. cit., Vol. I, p. 60.

106. Josephy, op. cit., p. 230.

107. Amundson, op. cit., pp. 17-8.

108. See E. S. C. Handy, op. cit., pp. 27-34.

109. Levy, op. cit., p. 885.

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21. Honolulu Sunday Star-Bulletin & Advertiser, "Born-Again Hawaiian," pp. C 1-2, 5; November 7, 1982.

22. Honolulu Star-Bulletin, "No to Annexation," pp. A 16-17, January 6, 1983.

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OCTOBER 4, 1982

ON SEPTEMBER 27, I HAD NOT READ THE DRAFT REPORT OF THE NATIVE HAWAIIAN STUDY COMMISSION, AND I WAS DISTURBED BY WHAT I HAD READ IN THE NEWS MEDIA.

I AM NOT AN ATTORNEY BUT I DO KNOW THAT ONE IS PRIVILEGED TO REFRAIN FROM SIGNING A REPORT BY SAYING I DO NOT CONCUR AND FILE A MINORITY REPORT GIVING HIS OR HER REASONS FOR NOT SUPPORTING THE REPORT.

AS I UNDERSTAND IT THE THREE HAWAIIAN MEMBERS OF THE COMMISSION DID NOT AGREE WITH THE BUREAUCRATS WHO ARE ON THE COMMISSION. THIS IS LIKE MAKING THE HAWAIIANS PLAY RUSSIAN ROULETTE WITH A FULLY LOADED WEAPON POINTED AT THEIR HEADS.

I UNDERSTAND THAT THERE WAS SOME STUPID REFERENCE TO NO RESISTANCE. IF THAT IS TRUE IT IS LIKE TELLING A PERSON WHO HAS BEEN RAPED THAT SHE DID NOT RESIST A GANG OF HOODLUMS TO THE POINT OF BEING "BUSTED UP."

IT STRIKES ME THAT THOSE WHO TEND TO SUPPORT THE DRAFT REPORT ARE TYPICAL OF THOSE AMERICANS WHO ARE STICKING THEIR NOSES INTO OTHER PEOPLES' BUSINESS, AND HOW MANY TIMES HAVE WE BEEN CAUGHT DOING THAT?

IF THERE IS NO LEGAL BASIS FOR REPARATION TO THE HAWAIIANS THEN OUR GREAT UNCLE SHOULD DO LESS TALKING AND TAKE CARE OF SOME LEGITIMATE BUSINESS RIGHT AT HOME AND MAKE IT LEGAL WITH APPROPRIATE LEGISLATION. I THINK THAT WE CAN SEE SIGNS OF MISGIVINGS OF PRESENT

DAY PACIFIC PEOPLE IN THEIR NEGOTIATIONS WITH THE U. S. IN STRIVING FOR INDEPENDENCE.

NOT TOO LONG AGO OUR BIG "UNCLE" WAS VERY PROUD TO ANNOUNCE HOW SUCCESSFUL HE WAS IN GETTING THE JAPANESE TO REWRITE THEIR HISTORY. BIG DEAL!

HERE WE ARE 90 YEARS LATER CAUGHT LIKE A MONKEY WITH HIS HANDS IN A COOKIE JAR OR A FLY ON FLY PAPER PROTESTING INNOCENCE IN THE STEALING OF A KINGDOM. I WONDER IF SOME OF THE GUYS WHO WERE INVOLVED WERE FORERUNNERS OF THE C.I.A.

AS AN AMERICAN HAWAIIAN I AM ASHMAED OF MY AMERICAN BLOOD FOR TELLING US NO REFERENCE TO THE WRONGS COMMITTED BY OUR GREAT COUNTRY--90 YEARS AGO.

IN RECENT YEARS UNDER THE GUISE OF PROTECTING WEAKER NATIONS WE HAVE USED SEVERAL MANEUVERS SHORT OF DECLARING WAR ON "BULLY NATIONS" BY DECLARING ECONOMIC SANCTIONS AGAINST THEM.

IF I UNDERSTAND WHAT I HAVE READ, SOME OF OUR "FRIENDS" HAVE THUMBED THEIR NOSES AT US AND IGNORED THE "ECONOMIC SANCTIONS" THAT WE HAD INVOKED.

I WONDERED WHY, BUT AFTER MUCH THINKING AND SOUL SEARCHING I BELIEVE OUR "FRIENDS" (SUCH AS ENGLAND, FRANCE, ETC.) JUST DON'T BELIEVE US ANYMORE.

IN HAWAII BEFORE THE HAOLE CAME THERE WERE NO WRITTEN LAWS. TODAY WE HAVE ALL KINDS OF LAWS AND I BELIEVE THAT CRIME IS ONE OF OUR BIG PROBLEMS TODAY.

I DON'T THINK THAT WE HAVE LOOKED UPON THIS SHAMEFUL ACT OF THE AMERICAN GOVERNMENT AS THE NUMBER ONE CRIME OF THE PAST CENTURY IN HAWAII.

IF WE HAVE NO LEGAL CLAIM TODAY FOR DAMAGE DONE TO THE HAWAIIAN PEOPLE, HOW CAN THESE SAME PIRATES SAY EVEN THOUGH ALL OF THE ACTIVITIES THAT ENDED IN THE OVERTHROW OF THE MONARCHY, THE ESTABLISHMENT OF A REPUBLIC AND THE CEDING OF THESE LANDS TO THE AMERICAN PEOPLE IS LEGAL?

I WONDER WHAT OUR COUNTRY LOOKS LIKE IN THE EYES OF OTHER PEOPLE IN THIS WORLD OF OURS.

I BELIEVE THE ANSWER WOULD BE "DO UNTO OTHERS AS YOU WOULD HAVE THEM DO TO YOU."

I BELIEVE, HOWEVER, THAT THE HAWAIIAN ATTITUDE WILL BE "WAHA WALE NO" IF THE DRAFT REPORT IS NOT RADICALLY CHANGED.

NOW ON A MORE POSITIVE NOTE: REMEMBER THE MOTTO OF OUR LAST QUEEN, LILIUOKALANI. ONIPAA--BE STEADFAST TO OUR PEOPLE AND REMAIN TRUE TO OUR HAWAIIAN ANCESTORS WHO WERE ROBBED OF THEIR DIGNITY AS A PEOPLE.

I WOULD BE MOST HAPPY TO AT LEAST KNOW THAT THE DRAFT REPORT IS NOT THE FINAL REPORT AND AS HAWAIIANS LET US BE TRUE TO OUR CULTURE AND HERITAGE AND PREPARE AMENDMENTS TO RECTIFY THE LIMITATIONS PLACED ON THE MEMBERS OF THE COMMISSION BY EXISTING LAWS.

Richard Lyman Jr

COMMENTS ON
THE NATIVE HAWAIIAN STUDY COMMISSION
DRAFT REPORT

Submitted To
The Office of Hawaiian Affairs
By The Native Hawaiian Legal Corporation

Melody K. MacKenzie
Staff Attorney
November 1982

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November 23, 1983

Ms. Kina'u Kamali'i, Chairperson
Native Hawaiian Study Commission
Prince Kuhio Federal Building
P.O. Box 50247
Honolulu, Hawaii 96850

Dear Kina'u:

We are transmitting for the review and consideration of the Native Hawaiian Study Commission (NHSC) the comments of the Office of Hawaiian Affairs relative to your draft report.

In submitting these comments the OHA Board of Trustees would like to emphasize that it represents a comprehensive analysis of the contents of the NHSC Draft Report. Specifically, OHA's comments address the objectivity of the Commission in examining the historical and legal basis for the Native Hawaiian claim for reparations and restitution.

In retrospect, when the Commission was enacted and subsequently appointed by President Reagan, the OHA Board of Trustees discussed the merits of participating in the activities of the Commission. The concern was whether the Commission could address the issue of the overthrow of the Hawaiian Kingdom with objectivity and impartiality since historical records document the participation of the United States in the overthrow. While the Board of Trustees subsequently urged the Hawaiian people to participate in the fact finding mission of the Commission, the Board of Trustees nonetheless do not concede that the Native Hawaiian Study Commission has the right to exclusive determination of those issues addressed in its study.

This position clearly substantiates OHA's desire to make available other options to future generations of Hawaiians in resolving the longstanding issue of the sovereignty taken from the Hawaiian people as a result of the overthrow of the Hawaiian Kingdom.

We hope that our comments will receive the full consideration of the Commission and members of the United States Congress.

Respectfully submitted,

Joseph G. Kealoha, Jr.
Chairman
Board of Trustees
Office of Hawaiian
Affairs

JGK:la

COMMENTS ON THE NATIVE HAWAIIAN STUDY COMMISSION DRAFT REPORT

I. INTRODUCTION

The Native Hawaiian Study Commission was established to study the "culture, needs, and concerns" of Native Hawaiians and report its findings and recommendations to Congress and the President. The Commission's task was to objectively inquire into these areas and, after examining all relevant facts, make informed and impartial findings and recommendations. However, the Draft Report released by the Commission shows a startling bias and lack of objectivity in the examination of the historical and legal basis for the Native Hawaiian claim for reparations and restitution. The Draft Report, which should present a fair and unprejudiced view of historical events and potential claims, is misleading and conclusory. The report makes statements which lack supporting authority and, in many instances, the report is argumentative rather than impartial. While it must be admitted that reporting on such a sensitive and complex area is a difficult task, the tone of this portion of the report is so biased as to cast doubt on the credibility of the Commission.

Part II, Chapter III, of the Draft Report which examines the legal basis for the reparations claim is particularly objectionable because, rather than a careful scrutiny of facts and law to reach a reasoned and fair conclusion, rather than presenting the similarities between the Native Hawaiian claim and those of other Native Americans, rather than exploring potential methods by which Native Hawaiians may assert their claim, the Draft Report merely takes the arguments advocated by OHA and others and argues to the contrary. This tactic would be proper if the Commission was acting as the attorney for the United States in a court of law. However, the Commission itself was established to be an impartial fact-finding body, not to play an adversarial role.

The following comments examine portions of Chapters I and II of Part II of the NHSC Draft Report and attempt to correct misinformation and highlight flaws in reasoning. These are not meant to be exhaustive remarks, but to pinpoint some of the critical gaps in the report. The comments then go on to scrutinize Chapter III, Part II, of the report. Finally, an alternative draft of Chapter III is presented, taking the information given in the NHSC Draft Report and restructuring it to show that, while present law does not provide a procedure for Native Hawaiians to assert their claim, numerous precedents and legal theories support the claim.

II. EXAMINATION OF SPECIFIC PORTIONS OF PART II OF THE NHSC DRAFT REPORT

A. Land Tenure System in Ancient Hawaii

The NHSC Draft Report is internally inconsistent in its description of the ancient land tenure system. Chapter V of Part I describes the ancient land tenure system of Hawaii as feudal in nature. Chapter I of Part II presents a more realistic view of the relationship of the ali'i and maka'ainana to the land, a view which has been widely accepted by Native Hawaiians. Yet even the information presented in Part II, Chapter I is misleading and incomplete. It is important to emphasize that the concept of fee-simple ownership of the land was unknown to Hawaiians. The ali'i or high chiefs did not own the land as the Draft Report seems to imply, they merely managed the land and other resources. "From a religious viewpoint, the ali'i nui was a person of divine power. Yet his authority was not a personal authority. It was, instead, a power channeled through him by the gods. In relation to land and natural resources, he was analogous to a trustee."[1] The ancient land system thus stands in stark contrast to Western concepts of private ownership.

> The ali'i nui (or mo'i) himself enjoyed no absolute ownership of all the land. The ali'i nui was a trustee of all the people within an island or some other larger district. The konohiki also maintained a similar tentative position because the maka'ainana were free to leave the ahupua'a if they were unhappy with a particular chieftain (ali'i) or konohiki. In short, the members throughout the political hierarchy shared a mutual dependence in sustaining their subsistence way of life.[2]

Further, each segment of the population enjoyed certain use rights in the land. Common areas of the ahupua'a were worked by the people and the products of that common area supported the chiefs and priests. The maka'ainana also worked smaller parcels of land and the produce of the smaller areas went to their own support.[3] In addition, the common people had certain gathering and fishing rights within the ahupua'a.[4] However, the land itself was viewed as belonging not to one individual but to the gods. All the people, including the ali'i, merely administered the land for the benefit of the gods and society as a whole.

Even after the islands were united by Kamehameha I, the trust concept continued, although the administration of the lands became more complex. The first written constitution of Hawaii clearly stated this proposition:

> Kamehameha I, was the founder of the kingdom, and to him belonged all the land from one end of the Islands to the other, although it was not his own private property. It belonged to the chiefs and people in common, of whom Kamehameha I was the head, and had the management of the landed property.[5]

The Mahele of 1848 and conversion to a fee simple system did not entirely do away with this trust concept. Although the interests of commoners, chiefs, king, and government were separated out in the Mahele, and the chiefs and commoners received individual parcels in fee simple, the Government and Crown lands were still held by the Government and Crown for the benefit of the people as a whole. Kamehameha III conveyed approximately 1.5 million acres to the Hawaiian Government setting the land apart "forever to the chiefs and people of my Kingdom."[6] The Crown lands, although originally intended by Kamehameha III as his own private lands, were subsequently made inalienable and became part of the public lands of Hawaii subject to the trust concept.[7]

B. Overthrow of the Hawaiian Kingdom

Chapter II, Part II, of the NHSC Draft Report examines the overthrow of the Hawaiian Kingdom. However, the report minimizes the part played by John L. Stevens, the United States Minister to Hawaii, and the presence of American troops on shore at Honolulu during that crucial period. Further, the Draft Report fails to consider Stevens' actions in the context of United States policy toward Hawaii and the strong annexationist sentiments present in the Harrison administration.

1. Harrison Administration's Policy Toward Hawaii

President Harrison appointed James G. Blaine as Secretary of State in 1889 and a short time later John L. Stevens, Blaine's protege and former newspaper associate, was appointed as minister to Hawaii. Secretary of State Blaine, primarily responsible for American policy toward Hawaii during this turbulent period, was himself was an advocate of annexation, having earlier written an editorial in the Kennebec Journal urging acquisition of Hawaii.[8] During his brief service as Secretary of State under the administration of Chester A. Arthur, Blaine had stated the U.S. policy as one of maintaining Hawaiian independence, but with the caveat that if the islands "drift from their independent station it must be toward assimilation and identification with the American system, to which they belong by the operation of natural laws and must belong by the operation of political necessity."[9] Writing to the American minister to Hawaii in 1881, Blaine outlined how American colonization of the islands could solve the labor problems brought about by the decline of the native population.[10] In a letter to President Harrison on August 10, 1891, Blaine wrote:

> I think there are only three places that are of value enough to be taken, that are not continental. One is Hawaii and the others are Cuba and Porto Rico. Cuba and Porto Rico are not now imminent and will not be for a generation. Hawaii may come up for decision at any unexpected hour and I hope we shall be prepared to decide it in the affirmative.[11]

President Harrison also saw the importance of Hawaii and, commenting on a possible free-trade treaty with Hawaii, wrote, " . . . the necessity of maintaining and increasing our hold and influence in the Sandwich Islands is very apparent and very pressing."[12]

It is clear that Harrison and Blaine took a friendly view toward Hawaiian annexation. Lorrin L. Thurston, a founding member of the Annexation Club, recounts that he visited Blaine in Washington during the Spring of 1892 to speak about annexation. Blaine told Thurston that he considered the annexation of Hawaii of the utmost importance and since he was unwell asked Thurston to speak with B.F. Tracy, Secretary of the Navy, "and tell him what you have told me, and say to him that I think you should see the President."[13] Thurston did visit Tracy, and was taken to the White House where, although Harrison decided not to see Thurston, he authorized Tracy to tell him that "if conditions in Hawaii compel you people to act as you have indicated, and you come to Washington with an annexation proposition, you will find an exceedingly sympathetic administration here."[14]

As the NHSC Draft Report indicates in an earlier section,[15] the United States from an early time had pursued a course of "political control of the islands, making them industrially and commercially a part of the United States."[16] This course is evidenced by the clause in the 1875 Reciprocity Treaty which prevented the Hawaiian government from disposing of any of its territory to any other power, by Secretary of State Blaine's written instructions in 1881 that the American Government would not permit the transfer of Hawaiian territory or sovereignty to any European power, and by the events culminating in the cession of Pearl Harbor to the United States in the 1887 Reciprocity Treaty.[17] Harrison's administration continued that policy and under Blaine's, and later Secretary Foster's, influence looked for ways to strengthen the hold over Hawaii.

2. Stevens' Role in the Overthrow of the Hawaiian Kingdom

The role played by U.S. Minister Stevens in overthrowing the Hawaiian Kingdom is indeed a controversial and difficult one to assess. However, the NHSC Draft Report contains inaccuracies and half-truths which give the mistaken impression that Stevens was a passive observer rather than an active participant in those events.

a) Stevens' Views on Annexation

The Draft Report glosses over the fact that Stevens was an open advocate of annexation, had written an editorial that received notoriety in the U.S. advocating annexation, and that his offical reports to Washington showed his strong bias in favor of annexation.[18]

b) Landing of American Troops

Although the Draft Report states that Stevens did not give his open support to the annexationists, it is important to emphasize that American troops were landed without the request of the Hawaiian monarchy, that once such troops were landed the Queen's cabinet asked Stevens to order their withdrawal, and that Stevens refused to do so.[19] When the Cabinet asked Stevens if the troops would be used to support the existing government, Steven's reply was that he would not use the troops to support the Queen.[20] This is in sharp contrast to his ready use of American troops two weeks later in aid of the Provisional Government. Further, the placement of American troops is a crucial factor to consider. While a detachment of marines (approximately 30 men) was sent to the American consulate, the majority were stationed at Arion Hall, located next door to the Government Building and across the street from the Palace.

c) Liliuokalani's Failure to Resist

The Draft Report seems to intimate that the Queen had sufficient forces at her command to overcome the American and annexationist troops. However, the report fails to point out that the Queen and her cabinet believed (and Stevens words and actions led them to believe) that the United States was lending support to the annexationists. For instance, immediately upon learning that a provisional government had been declared, the Queen's cabinet sent a letter to Stevens asking whether the United States had recognized the Provisional Government. Stevens' replied that he had. Strangely enough, Stevens' reply to the Cabinet was made before his letter of recognition was sent to the Provisional Government.[21] Liliuokalani and her ministers reasonably believed that in resisting, they would have to contend not only with the troops from the Boston, but with the entire force and power of the United States.

d) Stevens' Recognition of the Provisional Government

A factual error made in the NHSC Draft Report is the assertion that after U.S. Minister Stevens gave recognition to the Provisional Government, "other foreign ministers were quick to follow suit."[22] In truth, Stevens' recognition of the Provisional Government was very premature. Stevens recognised the Provisional Government sometime between 4:20 and 5:00 p.m. on January 17th. While the annexationists had taken control of the Government building, they did not have control of the police station where the bulk of the Queen's forces waited. It is clear that Stevens recognized the Provisional Government prior to Liliuokalani's surrender.[23] Indeed, Steven's ready recognition of the annexationists was a major factor in persuading the Queen to surrender.[24] The diplomatic and consular representatives of other countries did not recognize the new regime until the following day and Great Britain's minister did not officially recognize the Provisional Government until two days later.[25]

e) Liliuokalani's Surrender

The NHSC Draft Report implies that Liliuokalani surrendered to the United States merely to leave open the possiblity of regaining her kingdom. However, it is clear that the Queen surrendered to the United States because of the appearance created by Stevens and the landing of American troops that the United States wholly supported the overthrow of her government.[26] This assumption was not incorrect since a short two weeks later, the islands were placed under the military protection of the United States.

f) Hawaii Under American Protection

While the Draft Report mentions that on February 1, 1893, Stevens placed the islands under protection of the United States, landed additional troops from the Boston, and assumed watch over the Government Building, the import of Stevens' actions must be explored more fully. The Provisional Government had been in existance for a mere two weeks. During that period, there had been rumors that natives would attempt to take back power. At least 3 members of the Provisional Government's council guarded the Goverment Building at nights, and 200 stands of arms were missing from the inventory of arms procured from the Monarchy's forces at the time of the overthrow.[27] The Provisional Government stated in its request to Stevens:

> Believing that we are unable to satisfactorily protect life and property, and to prevent civil disorder in Honolulu and throughout the Hawaiian Islands, we hereby, in obedience to the instructions of the Advisory Council, pray that you will raise the flag of the United States of America, for the protection of the Hawaiian Islands for the time being, and to that end we hereby confer upon the Government of the United States, through you, freedom of occupation of the public buildings of this government, and of the soil of this country, so far as may be necessary for the exercise of such protection, but not interfering with the administration of public affairs of this country.[28]

From this action, it is evident that the Provisional Government was not sufficiently stable and did not have the military power to insure its own existence. The aid and support of the United States was needed at this crucial time and Stevens' readily gave it. Strangely enough, in Stevens telegram of February 1 to Secretary of State Foster informing him that the Islands had been placed under the protection of the United States, Stevens stated "[T]he Provisional Government of Hawaii gaining power and respect. Everything is quiet. Annexation sentiment is increasing."[29]

In his official dispatch to Foster sent the same date, Stevens wrote that he was "compelled to assume a grave responsiblity."[30] He justified his assumption of the protectorate on the grounds that the Provisional Government needed time to organize a reliable military force. A larger army was needed because of the presence of "renegade whites," "hoodlum foreigners," and "viscious natives". The Provisional Government feared, he said, the machinations of some "evil-disposed persons" who might stir some of the 40,000 Orientals to disorder. Finally, Stevens cited the arrival of a British warship as another reason for the protectorate. The British Minister "thus aided, might try to press unduly the Provisional Government. With the Islands under our protection, we think the English Minister will not attempt to insist that his govenment has the right to interfere while our flag is over the government building."[31]

The HNSC Draft Report quotes in part the reply of Secretary of State Foster to Stevens, but since this reply set forth the policy taken by the United States when its minister presumed to act independently, it should be examined in greater depth. While the reply criticized Stevens and disavowed his actions to the extent they set the authority and power of the United States over that of the Provisional Government, Foster also authorized Stevens to keep the troops ashore, provided they did not go beyond preserving order and protecting American lives and property. In reality, however, the situation in Hawaii did not change after Foster's reply. The flag of the United States continued to fly over the Government Building and American troops continued to occupy that building, thus continuing

the United States' open support of the Provisional Government.

3. Attempt to Restore the Monarchy

The HNSC Draft Report implies that Liliuokalani refused to grant a full amnesty to those who had overthrown her government and that such a refusal incited the attempt by the United States to restore the monarchy. Liliuokalani did at first refuse to grant a full amnesty opting instead for exile of the revolutionaries stating that "if they were allowed to remain, they would commit the same offense over again."[32] Considering the impact of their actions, Liliuokalani's views toward punishment of the annexationists was reasonable. The HNSC Draft Report fails to discuss the fact that Liliuokalani eventually did agree to grant a full amnesty. In reality, it was the position taken by the Provisional Government which prevented restoration. The Provisional Government refused terms of restoration, arguing that the United States had no authority to interfere in Hawaii's internal, domestic affairs.[33] Since the United States was unable to use diplomacy to bring about the restoration of the monarchy, President Cleveland turned the matter over to Congress.

4. The Blount Report and the Morgan Report

The HNSC Draft Report concludes that the truth with regard to the overthrow of the Hawaiian government probably "lies somewhere between" the Blount and Morgan Reports.[34] However, certain aspects of each report and the men

Blount did interview Henry Waterhouse.[37] W.O. Smith, a principle member of the Committee of Safety, submitted a written statement to Blount and he was aided in drafting the statement by Henry E. Cooper and James B. Castle, also members of the Committee of Safety.[38] Blount, when accused of submitting an *ex parte* report by the Morgan Committee, pointed out that he had asked members of the Provisional Government for interviews or statements, but they had refused. However, Blount did interview twenty annexationists, five members of the Provisional Government, and two of the speakers at the annexationists' mass meeting on January 16th.[39]

In contrast to Blount's impartiality, Senator John T. Morgan was a steadfast advocate of annexation. Only three weeks after the overthrow, on February 8, 1893, Morgan introduced a bill into Congress containing a plan for American governance of Hawaii.[40] Further, the HNSC Draft Report states that the Morgan Report came to a conclusion almost exactly opposite to that of the Blount Report, but that statement is misleading. The Senate Foreign Relations Committee was unable to reach a majority opinion, so Morgan, the chair of the committee, issued a report which began with the following statement:

> Hawaii is an American state, and is embraced in the American commercial and military system. This fact has been frequently and firmly stated by our Government, and is the ground on which is rested that peculiar and and far-reaching declaration so often and so earnestly made, that the United States will not

> admit the right of any foreign government to acquire any interest or control in the Hawaiian Islands that is in any way prejudicial or even threatening toward the interests of the United States or her people.[41]

Morgan's report vindicated eveyone involved in the Hawaiian affair, except the Queen and her cabinet. *Even Morgan, however, did not approve of the establishment of a U.S. protectorate over Hawaii*. The remaining eight members of the Foreign Relations Committee, four Democrats and four Republicans, approved *only* those portions of the report which coincided with the stands of their respective parties.

5. Cleveland's Message to Congress

While the HNSC Draft Report quotes partially from President Cleveland's Special Message to Congress on the Hawaiian situation, that message is of such importance that the entire text should be included in the HNSC's final submission to Congress. Blount had been sending reports to Secretary of State Gresham throughout his investigation in Hawaii. His letters show his increasing belief that Stevens had indeed played a significant role in overthrowing the monarchy.[42] Cleveland and his advisors accepted Blount's assessment of the role of the United States minister and troops in overthrowing the Monarchy. Cleveland's eloquent message to Congress summarizes Blount's findings and sets forth the basis for those findings. In order for Cleveland to have presented this message to Congress and to have sought restoration of the monarchy, he must have believed that U.S. involvement was of such a magnitude that extraordinary action was required. Such an admission by the President of the United States should carry great weight.

C. Annexation

Chapter II, Part II of the NHSC Draft Report analyses Hawaiian annexation and concludes that expedience was the primary reason for annexing Hawaii by joint resolution rather they by treaty in 1898. While the report states that the joint resolution method was finally used to annex Hawaii because world events made it plain to the President and Congress that annexation was essential, this reasoning is specious. Basically, the Draft Report reasons that annexation by the joint resolution method was necessary because annexation was essential! Obviously, however, many Senators did not think annexation was "essential." All previous annexation treaties had failed and the 1897 treaty was unlikely to win the required two-thirds vote in the Senate. Indeed secret sessions debating annexation were necessary because of the feared defeat of the treaty.[43] Further, it is not clear that world events made it necessary that Hawaii be annexed with such haste that the usual treaty-making process was bypassed. By the time the annexation resolution was introduced into Congress, Dewey had defeated the Spanish at Manilla Bay and the war was virtually over. At least one authority attributes Hawaiian annexation to primarily commercial rather than military reasons.[44] Clearly, the joint resolution device was used because of strong opposition in the Senate to annexation.

The Draft Report also suggests that the fact that annexation was accomplished by joint resolution may indicate greater popular support for the measure than if the same had been accomplished by treaty. However, as the NHSC Draft Report subsequently points out, while annexation may have received support in the United States, it did not receive such support among the native people of Hawaii.

The NHSC Draft Report compares Hawaiian annexation to the annexation of other territories. As the report indicates, the annexation most analogous to that of Hawaii was the annexation of Texas. Both Texas and Hawaii were "independent foreign states" and both became territories of the United States under joint resolution. While the report points out the similarities between Hawaiians and Texan annexation, the major difference in the two annexation processes should be highlighted. In the Texas situation, the Texas joint resolution merely signified the willingness of the United States to admit Texas as a state if it fulfilled certain conditions.[45] The Texan Congress accepted annexation on June 1, 1845. On July 4, a special convention approved annexation and wrote a state constitution. Finally, in October, a referendum was held and the people of Texas not only ratified the constitution, but also voted to accept annexation. Thus, Texas accepted annexation not just once but three times. On December 29, 1845, President Polk signed a bill admitting Texas as a state. In a technical sense then, a joint resolution did not admit Texas to the

Union - it merely invited Texas to accept annexation and form a state. Further, the Texas joint resolution required Texas to act after the United States had first acted. In the situation of Hawaii, the Republic of Hawaii's Senate had ratified the 1897 Treaty of Annexation on September 9, 1897. In the summer of the following year the Joint Resolution of Annexation passed both houses of Congress and was signed on July 7th. No provision was made for a vote by the native people or other citizens of Hawaii. It was assumed that ratification of the Treaty of Annexation almost a year previously was sufficient to show consent of the people. But, it is highly probable that if annexation had been voted upon by the people of Hawaii, it would have been defeated. Native Hawaiians were overwhelmingly opposed to annexation. There was widespread resistance as evidenced by the petition of 21,000 native Hawaiian names protesting annexation. While some of the names on the petition were fraudulent, the majority of the list was valid, indicating that the vast majority of Native Hawaiians were hostile to annexation.[46] Even the NHSC Draft Report notes that this opposition was well known in Congress.[47]

III. EXAMINATION OF PART II, CHAPTER III

In its original submission to the Native Hawaiian Study Commission, OHA argued that the Native Hawaiian claim for restitution and reparations is founded on two basis - the loss of sovereignty and the loss of land. In structuring its arguments, OHA discussed certain principles of Indian law with the hope that the Commission would draw appropriate analogies to the claim of Native Hawaiians. The NHSC Draft Report, however, draws the narrowest possible conclusions from those principles and at every turn seeks to foreclose a claim. It is obvious that the claim of Native Hawaiians is unique and does not neatly fit into law developed to handle the claims of Indian tribes. However, what is most disheartening is that the Commission has chosen to conclude that there is no legal basis for the claim without acknowledging the validity of reparations and restitution for the loss of sovereignty and land. The NHSC Draft Report essentially states that Congress is not compelled to recognize the Native Hawaiian claim, that no existing constitutional or statutory provision compels reparations or restitution. The fact that there is no mechanism by which Native Hawaiians can assert their claim does not undermine the validity of the claim.

The Draft Report repeatedly points to the statute of limitations provision of the Indian Claims Commission Act to reach the conclusion that a Native Hawaiian claim is barred because it was not filed by 1951. The Draft Report merely states the obvious. The Indian Claims Commission Act was created to provide a mechanism to adjudicate claims of identifiable Indian groups, those claims must have been filed by 1951. While the Indian Claims Commission Act has precedential value, no one has seriously argued that Native Hawaiians can file a claim under that Act as it presently exists. Thus, the NHSC Draft Report's continuous references to the Indian Claims Commission Act are, for the most part, superfluous and irrelevant.

The NHSC Draft Report also takes great pains to show that the claims of Alaskan Natives differ so substantially from the claims of Native Hawaiians that the Alaska Native Claims Settlement Act provides no precedent. Undoubtedly, the reasons compelling passage of the Alaska Native Claims Settlement Act and the legal situation of Alaska Natives differs significantly from that of Native Hawaiians. The treaties and acts applying to Alaskan Natives and Native Hawaiians are totally different. But to ignore the evident parallels and argue that there are *no* analogies at all is misleading. The NHSC Draft Report ignores the research done in 1973 by the Library of Congress Congressional Research Service comparing the Alaskan Native and Native Hawaiian Claims.[48] That report concluded that there were at least three possible similarities between the two claims.

1) In both situations the United States acquired land without the consent of the Native people;
2) In both situations viable aboriginal title claims

could be asserted; and

3) Both the Alaska and Hawaii Organic Acts left open the possibility of future land claims.[49]

The failure to examine existing research on this topic results in an incomplete and inaccurate analysis.

While the most significant objection to Chapter III is its adversarial tenor, the following comments highlight certain specific omissions and erroneous assumptions.

A. Aboriginal Title

A major premise for the NHSC Draft Report's conclusion that Native Hawaiians have no basis for a claim for loss of aboriginal title is that Native Hawaiians did not, at the time aboriginal title was lost, consitute a "single landowning entity."[50] The Draft Report, however, makes several false assumptions about the nature of land title in Hawaii prior to and after the Mahele. Prior to the Mahele, no concept similar to fee simple ownership existed. Neither the king, the chiefs, nor the people "owned" the land in the Western sense. Instead, the land was seen as belonging to the gods, although each strata of Hawaiian society had certain use rights in the land. The ali'i managed the land while the people worked the land for the common good. After the islands were united, all of the land belonged to Kamehameha I, "*although it was not his own private property. It belonged to the chiefs and people in common, of whom Kamehameha I was the head, and had the management of the landed property*."[51] Thus, prior to the Mahele, Native

Hawaiians owned the land in common, as a group. After the division of the interests of people, chiefs, government, and crown, the Kingdom of Hawaii clearly held title to Government Lands for the benefit of the chiefs and people. Similarly, Crown Lands, after the Act of 1865 making them inalienable, were held by the Hawaiian government.

The Hawaiian Kingdom, a politically cohesive unit composed of and accepted by Native Hawaiians, was the "single landowning entity" which held aboriginal title to Government and Crown lands. The Draft Report's primary fallacy comes in drawing a distinction between Native Hawaiians and their governing body, the government of the Hawaiian Kingdom.[52] That government represented the people - Native Hawaiians - and it is that government which is the "single landowning entity" required under the aboriginal title test.

Native Hawaiians advance no argument as to "constructive possession" of Government and Crown Lands. Such a constructive possession argument is irrelevant once it is accepted that the single land-owning entity was the Hawaiian government itself. Similarly, arguments that the Hawaiian government extinguished the aboriginal title of Native Hawaiians by the Mahele of 1848 or the Kuleana Act of 1850 have no validity since title to the Government and Crown Lands were *confirmed* in the native government by the Mahele and subsequent actions.

Native Hawaiians have clearly met other portions of the test for aboriginal title. For centuries prior to Western contact, Native Hawaiians used and occupied the lands of Hawaii and exercised collective rights in the land. After Western contact, and after the Mahele, much land was converted to individual fee-simple ownership. However, the Government and Crown Lands were maintained as lands held by the Hawaiian Kingdom for the chiefs and people in common. One indication of the collective rights in these lands was the specific recognition of traditional native rights of gathering and access on Government and Crown lands.[53] Further, the exact boundaries of these lands can be ascertained by referring to the original Mahele Book and documents, as well as documents substantiating subsequent transactions involving Government and Crown lands.[54]

As far as the contention that the United States government did not extinguish aboriginal title is concerned, in 1898 the federal government gained title to approximately 1.75 million acres of aboriginal land through the annexation process. The Republic of Hawaii would not have been able to cede these lands to the United States but for the actions of an agent of the United States and the use of American troops five years earlier. The intervening five years did not extinguish aboriginal title to Government and Crown lands since only voluntary abandonment of those lands by Native Hawaiians would divest Native Hawaiians of aboriginal title.[55] Under traditional principles of Indian law, forcible dispossession by non-natives, as in the case of Native Hawaiians, is not voluntary abandonment and does not extinguish aboriginal title.[56] Thus, Native Hawaiians continued to hold aboriginal title to Crown and Government Lands until such title was extinguished in 1898 by the Joint Resolution of Annexation. Moreover, even if Native Hawaiians were deprived of aboriginal title in 1893 by the establishment of a Provisional Government, under applicable principles of Indian law, the United States has been held liable for actions of third parties depriving aboriginal people of their land rights, if the Untied States aided in or sanctioned the actions of these third parties.[57] Surely, that was the case in Hawaii where the United States gave support and military protection to the Provisional Government.

Finally, while no existing law compels the United States to provide reparations or restitution for the loss of aboriginal title, in fact the federal government has done so in the past. As previously discussed, both the Indian Claims Commission Act and the Alaskan Native Claims Settlement Act provide precedents for such an action.[58]

B. Recognized Title

While the concept of recognized title as developed in Indian law is not totally applicable to the Native Hawaiian claim, the NHSC Draft Report neglects to examine the recognized title claim raised in OHA's initial submission to the Commission.[59] In that study, OHA noted that the title which the Hawaiian Kingdom held to Government and Crown lands was a formal title, granted in accordance with the domestic laws of Hawaii. Unlike the situation with Indian tribes, the federal government did not "grant" title of the Crown and Government lands to the Hawaiian Kingdom. However, the federal government did recognize and acknowledge the existing government of Hawaii and the rights of that government to the territory within its domain.[60]

Contrary to the Draft Report's contention, Native Hawaiians do not claim that the Hawaiian Kingdom granted "recognized title" of the Government and Crown Lands to individual Native Hawaiians. Again, the NHSC Draft Report attempts to draw a distinction between Native Hawaiians and their legitimately constituted government, and views Native Hawaiians as a group separate from the government which represented them. However, as in the aboriginal title claim, Native Hawaiians assert that the government of the Hawaiian Kingdom was the native governmental entity holding recognized title to Government and Crown lands. The recognized title claim put in its simplest terms is that the United States, by recognizing the sovereignty and domain of the Hawaiian Kingdom, also recognized the legitimacy of that government's title to its own lands.

Moreover, it has been the consistent policy of the United States to respect property rights of native people recognized under prior governments. Congress and the courts have long respected grants to native peoples under the laws of another sovereign. The most important examples of native groups that have claims traceable in part to the laws of other sovereigns are the Pueblo and California Indians, whose claims rested on Spanish and Mexican law, and the Alaska Natives, claiming in part under Russian law.[61] In each case, Congress acted to establish a procedure to determine and confirm land titles.[62]

The NHSC Draft Report also argues that the acquisition of Crown and Government lands by the United States in 1898 did not constitute a taking within the meaning of the Fifth Amendment since, under the Joint Resolution of Annexation and Organic Act, these lands were to remain in the possession, use, and control of the Territorial Government.[63] This is clearly a misinterpretation of the Joint Resolution and Section 91 of the Organic Act. The Government and Crown lands were transferred to the United States in fee. Indeed, several early opinions of the U.S. Attorney General held that the Joint Resolution of Annexation vested title to the public property of Hawaii in the United States and only by its authority could those lands be disposed of.[64] Section 91 of the Organic Act is the mechanism by which the United States gave the Territorial Government the power to manage those lands. However, the fee title to those lands clearly remained in the United States as evidenced by Hawaii's Admission Act in which the United States ceded such title to the State of Hawaii.[65] Further, the Territorial Government itself was a creature of federal statute and in truth derived its powers solely from Congress.[66] Consequently, in 1898 the Government and Crown Lands were taken by Congressional authorization for a public purpose and the Fifth Amendment prohibition would apply.

C. Sovereignty

The NHSC Draft Report's conclusion that Native Hawaiians have no claim for loss of sovereignty because Hawaii was not part of the United States in 1893 is self-serving.[67] The sovereignty claim is based on the fact that the United States interfered in the internal affairs of an independent nation. Thus, the Native Hawaiian claim for loss of sovereignty is unlike those of other native groups in the United States. Native Hawaiians were citizens of an organized, self-governing nation whose membership in the international community was well established. Unlike other Native American groups, the Hawaiian Kingdom was never a "domestic, dependent nation" whose sovereignty was limited by federal authority.[68] Consequently, analogies to Indian law lose their value when speaking of the Native Hawaiian claim for loss of sovereignty.

In examining the sovereignty claim the basic factual context of that claim should be restated. Native Hawaiians were citizens of an aboriginal nation with internal and external attributes of sovereignty. But for the actions of the United States and its agents in 1893, Native Hawaiians would still be citizens of such a nation and would still exercise these self-governing rights. Native Hawaiians were deprived of the most basic right of nationhood - the right to exist. This deprivation was accomplished with the assistance of the United States Minister to Hawaii and the aid of American troops. These actions were a clear violation of the Hawaiian Kingdom's right to independence and the principle of non-intervention in the affairs of another nation. Further, these actions subsequently led to annexation of Hawaii by the United States and to the federal government's acquisition of approximately 1.75 million acres of native land. All of this was accomplished in spite of overwhelming opposition by Native Hawaiians.[69] Admittedly, no Constitutional or statutory provision requires the United States to recognize a claim for loss of sovereignty. However, principles of justice and honor certainly require the United States to deal fairly with its native people.

D. Trust Relationship

The NHSC Draft Report erroneously states that a fiduciary relationship between the Federal Government and an Indian tribe can arise only from provisions of a treaty, statute or agreement whereby the Government assumes fiduciary obligations toward the tribe.[70] The trust relationship can be based on a variety of sources, including not only treaties, statutes, and agreements, but also acts providing specific benefits to native groups, and the entire course of federal government practice as it relates to the group.[71] In discussing the existence of a trust relationship between Native Hawaiians and the United States, the NHSC Draft Report ignores the primary source from which a trust duty arises - namely the role of the United States and its agents in overthrowing the Hawaiian Kingdom and the subsequent acquisition of almost 1.75 million acres of native land. Not unexpectedly, the United States has never clearly acknowledged its wrongdoing. Obviously once the wrong was acknowledged, a duty would arise. Consequently, it is hardly surprising that the Draft Report would conclude that no trust relationship exists and therefore reparations and restitution are not due.

However, even lacking the actual acknowledgment of a wrong, certain actions of the United States do indicate the existence of trust obligations with respect to Native Hawaiians. The NHSC Draft Report has neglected even to mention the two federal statutes which unequivocally establish a trust relationship between Native Hawaiians and the Federal Government.

In 1921, the Hawaiian Homes Commission Act was adopted by Congress.[72] Under the Act, Congress recognized its obligations to Native Hawaiians and placed in trust, for the benefit of those with 50% or more aboriginal blood, over 200,000 acres of land to be leased to Native Hawaiians at a nominal fee for 99 years. The lands placed in trust were part of the lands ceded to the United States at the time of annexation. Thus, as with other native groups, a portion of the aboriginal lands acquired by the United States was specifically set aside in trust for the protection and rehabilitation of the people whose lands were taken. In 1959, primary responsibility for the Hawaiian Homes Commission program was transferred to the State of Hawaii, but the federal government still retains certain responsiblities for the program. Land exchanges must be approved by the Secretary of the Interior and the Hawaiian Homes Commission Act cannot be amended or repealed by the state without Congressional action, unless the amendments deal solely with administrative matters or increases benefits to Native Hawaiians. Most importantly, the federal government retains enforcement power over the Hawaiian Homes trust.[73] Indeed, the federal government has admitted the existence of such a relationship in an amicus curiae brief filed in a recent case brought against the Hawaiian Homes Commission for violations of the Homes Commission Act.[74]

The second major piece of legislation establishing a trust relationship between the United States and Native Hawaiians is Hawaii's Admission Act.[75] Under that Act, the federal government gave the fee title to ceded lands (those lands obtained at the time of annexation) to the State, but specified five trust purposes for which those lands and the proceeds and incomes generated therefrom could be used.[76] Amongst those purposes was the betterment of the conditions of Native Hawaiians, as defined in the Hawaiian Homes Commission Act. In addition, Hawaii's Admission Act provides that failure to use the lands and funds as specified "shall constitute a breach of trust, for which suit by the United States may be brought."[77] By placing these restrictions upon the state's use of ceded lands, which originally were the Government and Crown lands acquired by the federal government at the time of annexation, the United States implicitly recognized its obligation to the native people of Hawaii.

Furthermore, the United States has continued to recognize Native Hawaiians as an aboriginal group in numerous legislative acts since 1959. These acts include the 1974 Administration for Native Americans Act, the 1978 Comprehensive Employment and Training Act, the American Indian Religious Freedom Act, and the Hawaiian Education Study Act of 1980.[78]

Thus, the NHSC Draft Report has totally ignored the entire course of Congressional practice and dealing with regard to Native Hawaiians. These acts do evidence trust obligations to Native Hawaiians even though the United States has been reluctant to fully acknowledge its responsibilities. Indeed, the NHSC Draft Report itself is merely one more example of the federal government's failure to deal impartially and fairly with the claims of Native Hawaiians.

FOOTNOTES

1. Office of Hawaiian Affairs, *Sovereignty and Land: Honoring the Hawaiian Native Claim* 3 (1982).

2. Hawaii State Dept. of Budget and Finance (Hawaii Institute for Management and Analysis in Government), *Land and Water Resource Management in Hawaii* 148 (1978).

3. M. Kelly, *Changes in Land Tenure in Hawaii*, 1778-1850, 20-26 (1956) (Unpublished thesis in University of Hawaii Library).

4. *Id*.

5. L. Thurston, *Fundamental Laws of Hawaii* 3 (1904)

6. *Rev. Laws of Hawaii, 1925*, Vol. II, 2152-2176.

7. *See*, *id*. at 2177; *Liliuokalani v. United States*, 45 Ct. Cls. 418, 428 (1910).

8. W.A. Russ, *The Hawaiian Revolution (1893-1894)*, 38 (1959).

9. R. Kuykendall, *The Hawaiian Kingdom (1874-1893)*, 244-245 (1967).

10. *Id*.

11. *Id*. at 486

12. *Id*. at 491

13. L.A. Thurston, *Memoirs of the Hawaiian Revolution* 230-232 (1936).

14. *Id*.

15. *See*, *eg*., *HNSC Draft Report* at 178-179, 181-182, 185-186.

16. C.C. Tansill, *The Foreign Policy of Thomas F. Bayard* (1940), cited in *HNSC Draft Report* at 179.

17. *Id*. at 186.

18. *See*, *eg*., Stevens to Blaine, No. 46, Feb. 8, 1892 Despatches; Stevens to Blaine, No. 48, March 8, 1892, Despatches Stevens to Foster, No. 73, Nov. 8, 1892, Despatches; *Russ*, *supra* note 8, at 56.

19. Russ, *supra* note 8, at 83.

20. *Id*., at 86.

21. Kuykendall, *supra* note 9, at 601

22. *HNSC Draft Report* at 185.

23. Kuykendall, *supra* note 9, at 601; Russ, *supra* note 8, at 107.

24. *See*, Russ, *supra* note 8, at 94-95 for a discussion of Liliuokalani's surrender.

25. *Id*., at 170.

26. *See*, *discussion in* Russ noted at note 24, *supra*.

27. Kuykendall, *supra*, note 9, at 607-608.

28. *Russ*, *supra* note 8, at 128-129.

29. Quoted in *Russ*, *id*. at 130.

30. Stevens to Foster, Nos. 82 and 84, Feb. 1, 1893, Despatches.

31. *Id*.

32. Liliuokalani's Diary, cited in Kuykendall, *supra* note 9, at 642.

33. *See*, Dole's letter of December 23, 1893, printed in House Ex. Doc. 70 (53 Cong. 2 Sess.), 36-42.

34. *HNSC Draft Report* at 199.

35. Quoted in Fuchs, L.H., *Hawaii Pono*: *A Social History* 32 (1961)

36. Mellen, K., *An Island Kingdom Passes* 279-281 (1958).

37. Waterhouse's interview can be found at 47-56 of the Blount Report (Exec. Doc. No. 47, 53rd Cong. 2d Sess. 1893).

38. *Id*., at 489-503.

39. Blount's Report was criticised by Dole in his notorious "Letter of Specifications" for interviewing only twenty Annexationists. Amongst the most important interviewed were S.M. Damon, Vice-President of the Provisional Government, C. Bolte, and Wm. DeWitt Alexander.

40. Mentioned in Kuykendall, *supra* note 9, at 617.

41. Morgan Report (Sen. Rep. 227, 53 Cong. 2 Sess.) 2.

42. For instance, see Blount's letters of April 26 (p. 13-24), May 4 (p. 35-37), and May 6 (p. 59-62) in the Blount Report, *supra* note 37.

43. *HNSC Draft Report* at 204.

44. Osborne, T.J., *Empire Can Wait* (1981).

45. Russ, W.A., *The Hawaiian Republic (1894-1898)*, 328-330.

46. *HNSC Draft Report* at 209-210.

47. *Id*.

48. Library of Congress, Legislative Research Service, *A History of the Alaska Native Claims Settlement Act of 1971. Together with A History of the Determination and Disposition of the Property Rights of Native Hawaiians, Being A Companion of these Two Situations in Light of Proposing a Settlement of Hawaiians Native Land Claims*, April 20, 1973.

49. *Id*., at 26-31.

50. *HNSC Draft Report* at 228.

51. *See*, note 5 *supra*.

52. *HNSC Draft Report* at 230-231.

53. *Rev. Laws of Hawaii, 1925*, Vol. II, at 2152-2176. Also, Act Confirming Rights of Native Tenants currently found in *Haw. Rev. Stat.* § 7-1.

54. The Mahele Book, the Declarations of Kamehameha III setting apart government lands and setting apart King's lands, the Act of June 7, 1848 accepting government land and confirming King's lands are the beginning points for determining boundaries of these lands. The State Department of Land and Natural Resources maintains records as to transactions subsequent to Mahele. Although an extensive search would be necessary, the DLNR's recent work on an inventory of state lands provides most of the groundwork.

55. *Williams v. City of Chicago*, 242 U.S. 434 (1917); *Mashpee Tribe v. New Seabury Corp.*, 592 F.2d 525 (1st Cir.), *cert*. *denied*, 444 U.S. 866 (1979).

56. *United States ex rel. Hualpai Indians v. Santa Fe Pac. R.R.*, 314 U.S. 339 (1941).

57. *See*, *U.S. v. Northern Paiute Nation*, 490 F.2d 954 (Ct. Cl. 1974); *U.S. v. Fort Sill Apache Tribe*, 533 F.2d 531 (Ct. Cl. 1976); *Temoak Bank of Western Shoshone Indians v. U.S.*, 593 F.2d 994 (Ct. Cl. 1979).

58. *See*, p. 20-21 of these comments.

59. *Sovereignty and Land*, *supra* note 1, at 81-83.

60. This policy is based upon international law considerations, *see*, eg. *Barker v. Harvey*, 181 U.S. 481 (1901).

61. Pueblo Lands Act of 1924, ch. 331, 43 stat. 636; California Private Land Claims Act of 1851, ch. 41, 9 Stat. 631; Alaska Native Claims Settlement Act, Pub. Law 92-203, § 4, 85 Stat. 688, 689.

62. *HNSC Draft Report* at 236.

63. 22 Ops. U.S. Att. Gen. 574 (1899); 22 Ops. U.S. Att. Gen. 627 (1899).

64. Admission Act of March 18, 1959, 73 Stat. 4, § 5.

65. *See*, *Inter-Island Steam Nav. Co., v. Terr. of Hawaii*, 305 U.S. 306 (1938); Organic Act, Act of April 30, 1900, ch. 339, 31 Stat. 41, §§ 66, 69, 80, 85 55.

66. *HNSC Draft Report* at 239.

67. *See*, *HNSC Draft Report* at 209-210.

68. Chief Justice John Marshall in *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1 (1831) set out the principle that Indian tribes lacked full sovereignty, but were domestic, dependent nations under the tutelage of the federal government.

69. *HNSC Draft Report* at 239.

70. *See eg*., *Duncan v. United States*, 667 F.2d 36 (1980), which held that when the federal government takes over control or supervision of Indian property, the fiduciary relationship exists even if pertinent statutes do not explicitly say that; *White v. Califano*, 437 F. Supp. 543, (D.S.D. 1977), *aff'd*., 581 F.2d 697 (8th Cir. 1978).

71. Act of July 9, 1921, ch. 42, 42 Stat. 108

72. Hawaii Adm. Act, *supra* note 65, § 5 (g); *see also* § 4.

73. *Amicus Curiae* Brief of United States filed in *Keaukaha-Panaewa Comm. Association, v. Hawaiian Homes Commission*, 588 F.2d 1216 (9th Cir. 1979).

74. Hawaii Adm. Act, *supra* note 63, § 5(f).

75. *Id*.

76. *Id*.

77. *See*, discussion of these acts in *Sovereignty and Land*, *supra* note 1, at 89.

IV. An Alternative

This next section presents an alternative to Part II, Chapter III of the NHSC Draft Report. This alternate Chapter III is being included merely to show that although the general principles of Indian law cannot be applied wholesale to the situation of Native Hawaiians, there are parallels and precedents which the NHSC Draft Report ignores. Alternate Chapter III is not meant to be a dispositive statement on the claims of Native Hawaiians, but to point out the obvious bias in the NHSC Draft Report.

ALTERNATE
*Chapter III

ARE NATIVE HAWAIIANS ENTITLED TO REPARATIONS OR RESTITUTION FOR LOSS OF LAND OR SOVEREIGNTY UNDER EXISTING LAW

In light of the history of landholding laws in Hawaii, and the history of the overthrow of the monarchy and annexation, this chapter examines whether Native Hawaiians have any legal claims to reparations or restitution from the United States for loss of land or sovereignty. In preparing this chapter, a number of articles and reports making the legal argument in favor of reparations and restitution have been reviewed. These include the report submitted by the Office of Hawaiian Affairs, *Sovereignty and Land: Honoring the Native Hawaiian Claim*; Karen Blondin's *A Case For Reparations for Native Hawaiians* 16 Hawaiian Bar Journal 13; and H. Rodger Betts' unpublished *Report on the Hawaiian Native Claims*, Second Draft, (February 17, 1978). In addition, this chapter attempts to address the views and analysis presented by a number of people at the hearings throughout Hawaii in January, 1982.

This chapter first sets forth the background for the analysis, because much of it depends on technical legal concepts and terms. It then examines whether there are principles of law which may entitle Native Hawaiians to reparations and restitution for loss of their land and loss of their sovereignty.

* Footnotes have not been included, however references can be made to both the NHSC Draft Report and earlier portions of these comments should source materials be desired.

Although this chapter examines principles of Indian law, it must be clearly stated that the claims made by Native Hawaiians are unique. Consequently, precedents established in Indian law can only provide broad analogies. In applying these principles to the claims made by Native Hawaiians, we should not look so much to the technicalities of the law, but to the basic policies which give life to those laws.

A. BACKGROUND

Over the years, a number of different native groups and organizations have sought reparations and restitution from the United States for loss of lands and loss of sovereignty. As a result, a large body of law has developed. That law is made up of both statutes passed by Congress and of cases decided by courts. Much of that law has been developed because American Indians (native Americans) have made claims for compensation; other law grows out of claims by Alaska Native groups. The present analysis examines whether existing principles of law -- as embodied in statutes and cases -- provide a basis for reparations and restitution. Without in any way suggesting that Hawaiian natives are an Indian tribe, the law developed for and about Indian tribes will be reviewed to determine whether this body of law provides a legal basis for the claims of Native Hawaiians.

Generally, law has developed that native groups may be entitled to reparations or restitution for loss of land under two legal principles: first, that a native group had "aboriginal title" to lands, and those lands were taken by the United States; and second, that the native group had "recognized title"—title that the United States specifically acknowledged under its laws. Each of these principles has a number of technical legal requirements that the native group must meet in order to be entitled to compensation under the principle. This chapter will analyze the facts regarding Native Hawaiian history and land law in the context of those legal requirements.

Claims for reparations and restitution for loss of sovereignty, on the other hand, have been made under several laws. This chapter will look briefly at the legal concept of sovereignty as it relates to Indian tribes and then consider whether Indian law offers any parallels to the Native Hawaiian experience. The chapter will then examine each of the laws under which claims for loss of sovereignty have been made.

Finally, this chapter will look at whether any special trust relationship exists between the United States and Native Hawaiians which could serve as a basis for reparations and restitution.

While this chapter must cover technical and legal material, summaries at the beginning and end of each portion of the chapter will make clear the context in which those legal points are considered.

B. DID NATIVE HAWAIIANS HOLD ABORIGINAL TITLE TO CROWN AND GOVERNMENT LANDS AND ARE THEY ENTITLED TO COMPENSATION FOR LOSS OF ANY SUCH TITLE

Aboriginal title is a concept developed in the law to provide a basis for a native group that does not have traditional, legally-accepted land ownership rights to establish a claim to land ownership. It is generally defined as title derived from the use and occupancy of land from time immemorial. Under the law, a native group must meet a number of specific tests in order to establish aboriginal title to a tract of land: the group must be "a single landowning entity"; there must have been actual and exclusive use and occupancy of the lands; the use and occupancy must have been of a defined area; and the land must have been used and occupied for a long time before aboriginal title was extinguished.

If Native Hawaiians meet the test of holding aboriginal title, to be entitled to reparations or restitution from the United States the title must have been extinguished by the government of the United States. Finally, courts have held that loss of aboriginal title is not necessarily compensable, so in order to receive reparations or restitution for loss of aboriginal title there must be a specific statute allowing Native Hawaiians to assert their right to reparations or restitution. This section will analyze each of these legal requirements to determine: whether Native Hawaiians had aboriginal title to portions of the land in Hawaii; whether the United States extinguished

that title; and whether any acts relative to aboriginal title claims of other native groups provide a precedent for reparations and restitution for Native Hawaiians.

Did Native Hawaiians have aboriginal title to the Crown and Government land?

To establish aboriginal title to the Crown and Government lands, Native Hawaiians must meet each of the tests for such title set forth above.

The first requirement is that Native Hawaiians constituted a "single landowning entity" at the time they held aboriginal title. The "single landowning entity" requirement can be met by demonstrating that the native groups was a politically cohesive unit or, in the absence of political cohesiveness, that the group had a common culture, common language, ties of kinship, economic ties, and had collective rights and common use in the area claimed.

Prior to unification of the islands in 1810, it is obvious that Native Hawaiians were a group with a common culture, language, ties of kinship, and economic ties. Moreover, under the ancient land tenure system, no concept similar to fee simple ownership existed. Neither the king, the chiefs, nor the people "owned" the land in the Western sense. Instead, the land was viewed as belonging to the gods, although each strata of Hawaiian society had certain use rights in the land. The ali'i or chiefs managed the land while the people worked the land for the common good. Thus, it appears that before 1810, Native Hawaiians constituted a "single landowning entity."

After the islands were united, it is clear that Native Hawaiians formed a politically cohesive unit under the rule of Kamehameha I. Island governors were appointed, basic laws were declared. In 1840, the first constitution was passed, declaring that all of the land of the kingdom had belonged to Kamehameha I, but "it was not his own private property. It belonged to the chiefs and people in common, of whom Kamehameha I was the head, and had the management of the landed property." This statement appears to embody the common use and ownership concept of the ancient land tenure system. Thus, prior to the Mahele of 1848, Native Hawaiians appear to have practiced a type of communal "ownership" of all the land of Hawaii.

In 1848 the Great Mahele, or division of land, "finally and conclusively established the principle of private allodial titles." The intended goal of the Land Commission Board and of the Mahele was to be a total partition of individual interests, including a division and parcelling out of the interests of the common people.

An important aspect of the Great Mahele was Kamehameha III's action setting "apart forever to the chiefs and the people of my kingdom" approximately 1,500,000 acres of land. At the same time, he retained for himself, his heirs and successors approximately 1,000,000 acres. The former lands were known as Government lands and the latter Crown lands. In setting apart lands to the chiefs and people, Kamehameha III continued and confirmed the collective ownership of these lands by the Native Hawaiian people. After the division of the interests of people, chiefs, government, and crown, the Kingdom of Hawaii held title to Government Lands for the benefit of the chiefs and people. Similarly. Crown Lands, after the Act of 1865 making them inalienable, were held by the Hawaiian government.

The Kuleana Act (and other legislation passed subsequent to the Great Mahele) allowed individual native Hawaiians to claim a fee simple interest in lands they had actually cultivated or, in the case of other native Hawaiians, to obtain fee simple title to Government lands by purchase. Land, including Government and Crown lands, was made available for purchase by foreigners. These lands, then, were no longer held in common by Native Hawaiians, but were owned in fee simple and resulted in vested property rights. Native Hawaiians are not asserting aboriginal title claims to these lands which passed into the fee ownership system, although all lands in Hawaii appear to be subject to native rights.

Native Hawaiians appear to have met the first requirement of aboriginal title, they constituted a single landowning entity. Prior to 1819, they had common cultural, language, economic, and kinship ties, and collective rights. After 1819, the Hawaiian Kingdom, a politically cohesive unit composed of and accepted by Native Hawaiians, was the "single landowning entity" which held aboriginal title to Government and Crown lands.

The second and third tests for aboriginal title are that the single landowning entity had actual and exclusive use and occupancy of the specified lands (here, the Government and Crown lands) for a long time before title was extinguished. Native Hawaiians appear to have met this portion of the test for aboriginal title. For centuries prior to Western contact, Native Hawaiians used and occupied the lands of Hawaii and exercised collective rights in the land. After Western contact, and after the Mahele, much land was converted to individual fee-simple ownership. However, the Government and Crown Lands were maintained as lands held by the Hawaiian Kingdom for the chiefs and people in common. One indication of the collective rights in these lands was the specific recognition of traditional native rights of gathering and access on Government and Crown lands. Further, the exact boundaries of these lands can be ascertained by referring to the original Mahele Book and documents, as well as subsequent transactions involving Government and Crown lands.

Native Hawaiians appear to have met all of the requirements of the test for determining whether a native group held land by aboriginal title.

Did the United States extinguish aboriginal title?

The next question to be considered is whether the United States extinguished the aboriginal title which Native Hawaiians may have had in the Government and Crown lands. In 1898 the Republic of Hawaii ceded approximately 1.75 million acres of aboriginal land to the United States. The Republic of Hawaii would not have been able to cede these lands to the United States but for the actions of agents of the United States and the use of American troops five years earlier. The intervening five years did not extinguish aboriginal title to Government and Crown lands since only voluntary abandonment of those lands by Native Hawaiians would divest Native Hawaiians of aboriginal title. Under traditional principles of Indian law, forcible dispossession by non-natives, as in the case of Native Hawaiians, is not voluntary abandonment and does not extinguish aboriginal title. Thus, Native Hawaiians continued to hold aboriginal title to Crown and Government Lands until such title was extinguished in 1898 by the Joint Resolution of Annexation.

Moreover, even if Native Hawaiians were deprived of aboriginal title in 1893 by the establishment of a Provisional Government, the United States may still be liable. Under applicable principles of Indian law, the United States has been held responsible for actions of third parties depriving aboriginal people of their land rights, if the United States aided in or sanctioned the actions of those third parties. A strong argument could be made that such was the case in Hawaii where the United States gave support and military protection to the Provisional Government.

Rights to reparations or restitution for loss of aboriginal title

Assuming Native Hawaiians had aboriginal title to Crown and Government lands, and that that title was extinguished by the United States, no existing law provides for reparations or restitution for the loss of these lands. Although the Fifth Amendment to the United States Constitution prohibits the federal government from taking land without just compensation, courts have held that aboriginal title is not a vested property right. It is only a right of occupancy which the sovereign may terminate at any time without payment. Therefore, it has been held that the loss of aboriginal title does not automatically entitle the loser to compensation under the Fifth Amendment.

While there is no constitutional provision which would compel compensation for the loss of aboriginal title, Congress has previously provided either a judicial forum for compensation or directly acted to compensate for loss of such title. There is ample legal and equitable precedent for such action in special jurisdictional acts giving Indian tribes the right to bring their aboriginal title claims into court, the Indian Claims Commission Act, and the Alaska Native Claims Settlement Act.

In conclusion, Native Hawaiians appear to meet the tests for establishing aboriginal title to the Crown and Government lands of Hawaii. Further aboriginal title appears to have been extinguished by the United States either at the time of annexation or through earlier acts sanctioning the deprivation of such title. Native Hawaiians may be entitled to compensation for such extinguishment by the United States under existing legal principles. However, no present statute provides for reparations or compensation for that loss.

C. ARE NATIVE HAWAIIANS ENTITLED TO REPARATIONS OR RESTITUTION FOR LOSS OF RECOGNIZED TITLE TO CROWN AND GOVERNMENT LANDS?

The second legal principle under which the United States has provided reparations or restitution for loss of land is if the United States has "recognized"--acknowledged by its laws--the title of the native group to the land. Again, specific legal requirements to establish that the United States has recognized title must be met. "Recognized" title, in fedral law, occurs when Congress has granted an Indian tribe the "right to occupy and use" certain lands permanently. "Recognized" title means the grant to Indian tribes of "rights in land which were in addition to the Indians' traditional use and occupancy rights exercised only with permission of the sovereign. . . ." [Emphasis supplied.] This section analyses those requirements in light of Native Hawaiian history.

First, recognized title must come from the United States Congress. Before 1898 Congress had no jurisdiction over Native Hawaiians, although the United States did sign numerous treaties with the Native Hawaiian government.

Thus, the general principle is that only Congress can accord recognized title. However, Kamehameha III's action in setting aside approximately 1.[illegible] million acres of

Government lands to "the chiefs and the people of my kingdom," and reserving another 1 million acres as Crown land indicate that the title held by Native Hawaiians may have been not only aboriginal in nature, but also a formal, vested title. The approval of Kamehameha III's actions by the Hawaiian Legislature in the Act of June 7, 1848, emphasizes the point that that title was a formal title, granted in accordance with Hawaiian law. Furthermore, that title was implicitly recognized by the United States in numerous treaties and agreements

In 1826 the first formal agreement between the United States and the Hawaiian Kingdom was negotiated. Although that treaty was never ratified by the United States Senate it was

> . . . clearly an international act, signed as such by the authorities of the then independant Hawaiian government, and by a representative of the United States, whose instructions, while vague, must be regarded as sufficient authority for his signature, in view of the then remoteness of the region from the seat of government and the general discretion which those instructions granted.

In 1849, the Congress ratified a formal treaty between the United States and the Kingdom of Hawaii dealing with friendship, commerce, and navigation. Article One provided for the "perpetual peace and amity between the United states and the King of the Hawaiian Islands, his heirs and successors." The initial life-span of this Friendship Treaty was 10 years. After the initial ten years, each party had the right to terminate the treaty after a year's notice. This treaty was still in effect at the time the

Hawaiian monarchy was overthrown in 1893. In 1875, another treaty between the United States and Hawaii was signed providing duty-free entry of certain American goods and products into Hawaii and vice versa. In 1887, this Reciprocity Treaty was amended to give the United States the exclusive right to enter and use Pearl Harbor as a coaling and repair station. Obviously, in gaining the use of Hawaiian lands, the United States must have recognized that the title of those lands rested in the Hawaiian government.

While these treaties are clearly very different from those negotiated with Indian tribes, they indicate that the United States recognized and acknowledged the existing government of Hawaii and the rights of that government to the territory then within its domain. In some senses, then, this amounted to a recognition of title in the Hawaiian government.

The title to the approximately 1.75 million acres of Government and Crown Lands owned in common by Hawaiian natives prior to 1893 was a formal title, granted in accordance with the domestic laws of the Hawaiian government. That government was fully recognized by the international community and the United States as the legitimate government of the Hawaiian Islands. Arguably, that title would have been property under the Fifth Amendment had it been held by an Indian tribe within the territory of the United States.

Additionally, it should be noted that the United States, in the past, has, respected property rights of

native people which were recognized under prior governments. Congress and the courts have long respected grants to native people under the laws of another sovereign. This policy is based on international law precepts. The most important examples of native groups that have claims traceable in part to the laws of other sovereigns are the Pueblo and California Indians, whose claims rested on Spanish and Mexican law, and the Alaska Natives, claiming in part under Russian law. In each case, Congress acted to establish a procedure to determine and confirm title.

If recognized title is established, compensation is due under the Fifth Amendment. Thus, if Native Hawaiians were accorded recognized title by an action of the United States Congress, they can be compensated for loss of that title. Actions of the United States before 1898 probably would not be compensable under the Fifth Amendment as a "taking" of the Government and Crown lands because the United States did not have jurisdiction over Hawaii. However, annexation itself may be considered a taking under the the Fifth Amendment because in that process the Crown and Government lands were appropriated for use by the federal government pursuant to a Congressional authorization. Although the 1900 Organic Act provided that the lands ceded to the United States under the Joint Resolution of Annexation would remain in the possession, use and control of the Territory of Hawaii, these lands were transferred to the United States in fee and only through Congressional authority could those lands be disposed of. Therefore, while Native Hawaiians did not have "recognized title" in the same sense as Indian tribes, applicable principles of Indian law as well as equitable principles indicate that Native Hawaiians may be entitled to reparations or restitution for the loss of their lands.

D. ARE NATIVE HAWAIIANS ENTITLED TO REPARATIONS OR RESTITUTION FOR LOSS OF SOVEREIGNTY

Native groups have also made claims that they should be given compensation for loss of "sovereignty." This section defines sovereignty and then considers whether the law provides compensation for its loss in the context of the facts relevant to Native Hawaiians.

The Office of Hawaiian Affairs defines sovereignty as the power to control internal and external affairs and the right of self-government. Although the courts of the United States have examined the concept of sovereignty as it relates to Indian tribes, that concept does not appear to be applicable to the Native Hawaiian claim. This is true primarily because the Indian tribes came within the territorial jurisdiction of the United States. Early in the history of American jurisprudence it was determined that Indian tribes were "domestic, dependent nations" who exercised inherent powers of a limited sovereignty and whose sovereignty "exists only at the sufferance of Congress and is subject to complete defeasance." In short, Congress can take away sovereignty of native groups at will. Further,

Congress has been very reluctant to recognize loss of sovereignty as a compensable claim.

However, in the case of Native Hawaiians, a unique situation is presented in that the very basis of the claim for loss of sovereignty is that the United States directly acted to cause that loss. Since, until 1893, Native Hawaiians were members of an organized, self-governing nation, principles of international rather than domestic law may be applicable. It may be that, if the factual claims of Native Hawaiians are validated, the United States violated the Hawaiian Kingdom's right to independence as well as the international law principle of non-intervention in the internal affairs of another country. Further, this violation may have been compounded by the United States' subsequent acquisition of the Government and Crown lands of Hawaii.

The fact that these actions were taken in spite of the opposition of the Native Hawaiian people and that such opposition was known in Congress, may not give rise to a legal right, but could give rise to a moral duty on the part of the United States to provide reparations or restitution. While Native Hawaiians have no present legal entitlement to compensation for any loss of sovereignty against the United States, Congress could, if it so chose, provide direct reparations and restitution for the claim.

E. TRUST RELATIONSHIP BETWEEN THE NATIVES OF HAWAII AND THE UNITED STATES

If a special trust relationship between the Federal Government and Native Hawaiians exists, which is very similar to the trust relationship between the Federal Government and United States Indian tribes, a failure of the United States to meet the terms of the trust may provide a basis for compensation. The theory has been advanced that, "It has long been recognized that a special relationship, characterized as a fiduciary relationship, exists between the Federal Government and Indian tribes," and that, "The federal-Hawaiian native relationship arises from United States' participation in the overthrow of the native government and subsequent federal ownership of the legal title to native lands."

A fiduciary relationship between the Federal Government and native group can arise from provisions of a treaty, statute or agreements with the tribe, from acts which grant benefits to a native group and from the entire course of dealings between the United States and the native group. A fiduciary (trust) relationship may have arisen from the fact that the United States Minister to Hawaii supported establishment of the Provisional Government in 1893. Although the Hawaiian Islands were not part of the United States in 1893, and the Federal Government exercised no sovereignty over them, subsequent acquisiton of Hawaii and particularly the Government and Crown lands may give rise to a trust relationship. While the United States has never explicitly recognized such a relationship, the course of

dealings between the federal government and Native Hawaiians may imply such a relationship.

The federal government has long recognized Native Hawaiians as a distinct aboriginal group and has dealt with them in a manner similar to other native American groups. Traditionally, certain criteria have been considered in determining whether a group of Indians is a "tribe" entitled to federal protection and services. These criteria include treaty relations with the United States, Congressional acts or executive orders denominating the group a tribe, collective rights in tribal lands or funds, recognition by other Indian tribes, and political authority over members exercised through a tribal council or other governmental form. Other factors which have been considered are the existence of special appropriation items for the group, the social solidarity of the group, and ethnological and historical considerations.

Applying these criteria to Native Hawaiians, it is obvious that Congress has afforded Hawaiians recognition as an aboriginal group. From an early period, the United States negotiated treaties with the Hawaiian Kingdom calling for peace and friendship and providing reciprocal trade rights. These treaties recognized the independence and sovereignty of the native government.

In 1893, President Cleveland acknowledged the role the United States Minister and American troops played in bringing about the overthrow of the native government and recommended restoration of that government. Although no action was taken, Queen Liliuokalani continued to represent her people and continually sought redress from Congress. On numerous occasions, legislation was introduced into Congress to redress that wrong. Finally, three years after the Queen's death, at the urging of Prince Jonah Kuhio Kalanianaole, Congress adopted the Hawaiian Homes Commission Act. Under the Act, Congress recognized its trust obligations to Native Hawaiians and placed in trust, for the benefit of those with 50% or more aboriginal blood, over 200,000 acres of land to be used for the development of homes, ranches, and farms. The lands placed in trust under the Hawaiian Homes Commission Act were part of the more than 1.75 million acres of Government and Crown Lands ceded to the United States by the Republic of Hawaii at the time of annexation. As with other native groups recognized by Congress, a portion of the aboriginal lands acquired by the United States was specifically set aside in trust for the protection and rehabilitation of the people whose lands were taken.

When the Hawaiian Homes Commission Act was being considered, one of the issues raised was whether Congress had the power to legislate for the benefit of native Hawaiians. At that time the Solicitor for the Department of the Interior gave an opinion upholding the Congressal power to enact legislation for native Hawaiians, analogizing it to the power to legislate for the benefit of Indians.

Congress' determination that Hawaiian natives should be treated as other aboriginal groups also is reflected in House Committee on Territories Report:

> In the opinion of your committee there is no constitutional difficulty whatever involved in setting aside and developing lands of the Territory for native Hawaiians only . . . [T]he legislation is based upon a reasonable and not an arbitrary classification and is thus not unconstitutional class legislation. Further there are numerous congressional precedents for such legislation in previous enactments granting Indians . . . special privileges in obtaining and using the public lands.

Since the adoption of the Hawaiian Homes Commission Act, Congress has continued to acknowledge their trust obligations to Hawaiian natives. In the 1959 Admission Act, Congress reinforced the federal government's responsibility to Hawaiian natives by requiring the State of Hawaii to adopt the Hawaiian Homes Commission Act as part of its constitution. Significantly, the federal government still retains certain responsibilities. Land exchanges must be approved by the Secretary of the Interior and the Act itself cannot be amended without Congressional action, unless the amendments deal solely with administrative matters or increase benefits to Native Hawaiians. The federal government has acknowledged its fiduciary obligations in and amicus curiae brief filed in Keaukaha-Panaewa Community Ass'n. v. Hawaiian Homes Commission, a ninth circuit case involving alleged violations of the Hawaiian Homes Commission Act.

The State Admission Act also recognized native Hawaiians in section 5(f) by designating "the betterment of conditions of native Hawaiians" as one of the five trust purposes for which proceeds and income from ceded lands could be used. Ceded lands are those Government and Crown lands ceded to the United States at the time of annexation. Moreover, the Admission Act provides that failure to use the lands and funds as specified "shall constitute a breach of trust, for which suit may be brought by the United States." Both the Hawaiian Homes Commission Act and the Admission Act form the basis for a trust relationship between the United States and Native Hawaiians.

Other indications that Congress has undertaken fiduciary responsibilities towards Native Hawaiians can be found in recently enacted legislation. For instance, in 1974 Congress made Hawaiians eligible for participation in the programs of the Administration for Native Americans. In 1978, Congress amended the Comprehensive Employment and Training Act to include Hawaiians in the Indian Manpower Program administered by the Director of Indian and Native American Programs of the Department of Labor. In the same year, the 95th Congress adopted the American Indian Religious Freedom Act and included Hawaiian natives in its coverage. The Hawaiian Education Study Act of 1980, in establishing a special commission on Hawaiian education, recognized that native Hawaiians, like other native Americans, rank amongst the lowest in level of educational attainment. Even the Native Hawaiian Study Commission Act

can be viewed as a recognition of certain obligations to Native Americans.

Like many native American groups, Native Hawaiians have sought reparations and restitution for actions of the United States. In limited ways, the United States appears to have recognized a special trust obligation to Hawaii's native people and their lands. Congress has not taken the final step in giving formal legal recognition to moral and ethical claims of Native Hawaiians, however Congress appears to have implicitly undertaken trust responsibilities to Native Hawaiians.

The purpose of this chapter was to examine the existing principles which are most likely to provide a basis for reparations and restitution to Native Hawaiians for loss of lands or sovereignty. As set forth here, the review shows that existing principles do provide a basis for reparations and restitution. However, no present law allows Native Hawaiians to assert their claim in a court of law. Therefore, special legislation appears necessary to provide Native Hawaiians with such a mechanism or to directly give reparations and restitution. Congress has responded in the past to native American claims: once with the passage of the Indian Claims Commission Act in 1946, again in 1971 with the Alaska Native Claims Settlement Act. Congress has also allowed Indian tribes to bring suit in federal court under the laws, treaties and constitution of the United States. For this Commission, the next step is to consider, as it formulates its recommendations at a later stage of its proceedings, what recommendations should be made to Congress in order to adequately address the Native Hawaiian claim. This report is being prepared under a statute which requires the Commission to direct its findings and recommendations to Congress. Therefore, consideration of such Congressional action is particularly appropriate.

SPECIAL MESSAGE
PRESIDENT CLEVELAND TO CONGRESS
DECEMBER 18, 1893

SPECIAL MESSAGES.

EXECUTIVE MANSION,
Washington, December 18, 1893.

To the Senate and House of Representatives:

In my recent annual message to the Congress I briefly referred to our relations with Hawaii and expressed the intention of transmitting further information on the subject when additional advices permitted.

Though I am not able now to report a definite change in the actual situation, I am convinced that the difficulties lately created both here and in Hawaii, and now standing in the way of a solution through Executive action of the problem presented, render it proper and expedient that the matter should be referred to the broader authority and discretion of Congress, with a full explanation of the endeavor thus far made to deal with the emergency and a statement of the considerations which have governed my action.

I suppose that right and justice should determine the path to be followed in treating this subject. If national honesty is to be disregarded and a desire for territorial extension or dissatisfaction with a form of government not our own ought to regulate our conduct, I have entirely misapprehended the mission and character of our Government and the behavior which the conscience of our people demands of their public servants.

When the present Administration entered upon its duties, the Senate had under consideration a treaty providing for the annexation of the Hawaiian Islands to the territory of the United States. Surely under our Constitution and laws the enlargement of our limits is a manifestation of the highest attribute of sovereignty, and if entered upon as an Executive act all things relating to the transaction should be clear and free from suspicion. Additional importance attached to this particular treaty of annexation because it contemplated a departure from unbroken American tradition in providing for the addition to our territory of islands of the sea more than 2,000 miles removed from our nearest coast.

These considerations might not of themselves call for interference with the completion of a treaty entered upon by a previous Administration, but it appeared from the documents accompanying the treaty when submitted to the Senate that the ownership of Hawaii was tendered to us by a Provisional Government set up to succeed the constitutional ruler of the islands, who had been dethroned, and it did not appear that such Provisional Government had the sanction of either popular revolution or suffrage. Two other remarkable features of the transaction naturally attracted attention. One was the extraordinary haste, not to say precipitancy, characterizing all the transactions connected with the treaty. It appeared that a so-called committee of safety, ostensibly the source of the revolt against the constitutional Government of Hawaii, was organized on Saturday, the 14th day of January; that on Monday, the 16th, the United States forces were landed at Honolulu from a naval vessel lying in its harbor; that on the 17th the scheme of a Provisional Government was perfected, and a proclamation naming its officers was on the same day prepared and read at the Government building; that immediately thereupon the United States minister recognized the Provisional Government thus created; that two days afterwards, on the 19th day of January, commissioners representing such Government sailed for this country in a steamer especially chartered for the occasion, arriving in San Francisco on the 28th day of January and in Washington on the 3d day of February; that on the next day they had their first interview with the Secretary of State, and another on the 11th, when the treaty of annexation was practically agreed upon, and that on the 14th it was formally concluded and on the 15th transmitted to the Senate. Thus between the initiation of the scheme for a Provisional Government in Hawaii, on the 14th day of January, and the submission to the Senate of the treaty of annexation concluded with such Government the entire interval was thirty-two days, fifteen of which were spent by the Hawaiian commissioners in their journey to Washington.

In the next place, upon the face of the papers submitted with the treaty, it clearly appeared that there was open and undetermined an issue of fact of the most vital importance. The message of the President accompanying the treaty declared that "the overthrow of the monarchy was not in any way promoted by this Government," and in a letter to the President from the Secretary of State, also submitted to the Senate with the treaty, the following passage occurs:

> At the time the Provisional Government took possession of the Government buildings no troops or officers of the United States were present or took any part whatever in the proceedings. No public recognition was accorded to the Provisional Government by the United States minister until after the Queen's abdication and when they were in effective possession of the Government buildings, the archives, the treasury, the barracks, the police station, and all the potential machinery of the Government.

But a protest also accompanied said treaty, signed by the Queen and her ministers at the time she made way for the Provisional Government, which explicitly stated that she yielded to the superior force of the United States, whose minister had caused United States troops to be landed at Honolulu and declared that he would support such Provisional Government.

The truth or falsity of this protest was surely of the first importance. If true, nothing but the concealment of its truth could induce our Government to negotiate with the semblance of a government thus created, nor could a treaty resulting from the acts stated in the protest have been knowingly deemed worthy of consideration by the Senate. Yet the truth or falsity of the protest had not been investigated.

I conceived it to be my duty, therefore, to withdraw the treaty from the Senate for examination, and meanwhile to cause an accurate, full, and impartial investigation to be made of the facts attending the subversion of the constitutional Government of Hawaii and the installment in its place of the Provisional Government. I selected for the work of investigation the Hon. James H. Blount, of Georgia, whose service of eighteen years as a member of the House of Representatives and whose experience as chairman of the Committee of Foreign Affairs in that body, and his consequent familiarity with international topics, joined with his high character and honorable reputation, seemed to render him peculiarly fitted for the duties intrusted to him. His report detailing his action under the instructions given to him and the conclusions derived from his investigation accompany this message.

These conclusions do not rest for their acceptance entirely upon Mr. Blount's honesty and ability as a man, nor upon his acumen and

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impartiality as an investigator. They are accompanied by the evidence upon which they are based, which evidence is also herewith transmitted, and from which it seems to me no other deductions could possibly be reached than those arrived at by the commissioner.

The report, with its accompanying proofs and such other evidence as is now before the Congress or is herewith submitted, justifies, in my opinion, the statement that when the President was led to submit the treaty to the Senate with the declaration that "the overthrow of the monarchy was not in any way promoted by this Government," and when the Senate was induced to receive and discuss it on that basis, both President and Senate were misled.

The attempt will not be made in this communication to touch upon all the facts which throw light upon the progress and consummation of this scheme of annexation. A very brief and imperfect reference to the facts and evidence at hand will exhibit its character and the incidents in which it had its birth.

It is unnecessary to set forth the reasons which in January, 1893, led a considerable proportion of American and other foreign merchants and traders residing at Honolulu to favor the annexation of Hawaii to the United States. It is sufficient to note the fact and to observe that the project was one which was zealously promoted by the minister representing the United States in that country. He evidently had an ardent desire that it should become a fact accomplished by his agency and during his ministry, and was not inconveniently scrupulous as to the means employed to that end. On the 19th day of November, 1892, nearly two months before the first overt act tending toward the subversion of the Hawaiian Government and the attempted transfer of Hawaiian territory to the United States, he addressed a long letter to the Secretary of State, in which the case for annexation was elaborately argued on moral, political, and economical grounds. He refers to the loss to the Hawaiian sugar interests from the operation of the McKinley bill and the tendency to still further depreciation of sugar property unless some positive measure of relief is granted. He strongly inveighs against the existing Hawaiian Government and emphatically declares for annexation. He says:

> In truth, the monarchy here is an absurd anachronism. It has nothing on which it logically or legitimately stands. The feudal basis on which it once stood no longer existing, the monarchy now is only an impediment to good government—an obstruction to the prosperity and progress of the islands.

He further says:

> As a Crown colony of Great Britain or a Territory of the United States the government modifications could be made readily and good administration of the law secured. Destiny and the vast future interests of the United States in the Pacific clearly indicate who at no distant day must be responsible for the government of these islands. Under a Territorial government they could be as easily governed as any of the existing territories of the United States. * * * Hawaii has reached

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> the parting of the ways. She must now take the road which leads to Asia, or the other, which outlets her in America, gives her an American civilization, and binds her to the care of American destiny.

He also declares:

> One of two courses seems to me absolutely necessary to be followed—either bold and vigorous measures for annexation or a "customs union," an ocean cable from the Californian coast to Honolulu, Pearl Harbor perpetually ceded to the United States, with an implied but not expressly stipulated American protectorate over the islands. I believe the former to be the better, that which will prove much the more advantageous to the islands and the cheapest and least embarrassing in the end to the United States. If it was wise for the United States, through Secretary Marcy, thirty-eight years ago, to offer to expend $100,000 to secure a treaty of annexation, it certainly can not be chimerical or unwise to expend $100,000 to secure annexation in the near future. To-day the United States has five times the wealth she possessed in 1854, and the reasons now existing for annexation are much stronger than they were then. I can not refrain from expressing the opinion with emphasis that the golden hour is near at hand.

These declarations certainly show a disposition and condition of mind which may be usefully recalled when interpreting the significance of the minister's conceded acts or when considering the probabilities of such conduct on his part as may not be admitted.

In this view it seems proper to also quote from a letter written by the minister to the Secretary of State on the 8th day of March, 1892, nearly a year prior to the first step taken toward annexation. After stating the possibility that the existing Government of Hawaii might be overturned by an orderly and peaceful revolution, Minister Stevens writes as follows:

> Ordinarily, in like circumstances, the rule seems to be to limit the landing and movement of United States forces in foreign waters and dominion exclusively to the protection of the United States legation and of the lives and property of American citizens. But as the relations of the United States to Hawaii are exceptional, and in former years the United States officials here took somewhat exceptional action in circumstances of disorder, I desire to know how far the present minister and naval commander may deviate from established international rules and precedents in the contingencies indicated in the first part of this dispatch.

To a minister of this temper, full of zeal for annexation, there seemed to arise in January, 1893, the precise opportunity for which he was watchfully waiting—an opportunity which by timely "deviation from established international rules and precedents" might be improved to successfully accomplish the great object in view; and we are quite prepared for the exultant enthusiasm with which, in a letter to the State Department dated February 1, 1893, he declares:

> The Hawaiian pear is now fully ripe, and this is the golden hour for the United States to pluck it.

As a further illustration of the activity of this diplomatic representative, attention is called to the fact that on the day the above letter was written, apparently unable longer to restrain his ardor, he issued a proclamation whereby, "in the name of the United States," he assumed the

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protection of the Hawaiian Islands and declared that said action was "taken pending and subject to negotiations at Washington." Of course this assumption of a protectorate was promptly disavowed by our Government, but the American flag remained over the Government building at Honolulu and the forces remained on guard until April, and after Mr. Blount's arrival on the scene, when both were removed.

A brief statement of the occurrences that led to the subversion of the constitutional Government of Hawaii in the interests of annexation to the United States will exhibit the true complexion of that transaction.

On Saturday, January 14, 1893, the Queen of Hawaii, who had been contemplating the proclamation of a new constitution, had, in deference to the wishes and remonstrances of her cabinet, renounced the project for the present at least. Taking this relinquished purpose as a basis of action, citizens of Honolulu numbering from fifty to one hundred, mostly resident aliens, met in a private office and selected a so-called committee of safety, composed of thirteen persons, seven of whom were foreign subjects, and consisted of five Americans, one Englishman, and one German. This committee, though its designs were not revealed, had in view nothing less than annexation to the United States, and between Saturday, the 14th, and the following Monday, the 16th of January—though exactly what action was taken may not be clearly disclosed—they were certainly in communication with the United States minister. On Monday morning the Queen and her cabinet made public proclamation, with a notice which was specially served upon the representatives of all foreign governments, that any changes in the constitution would be sought only in the methods provided by that instrument. Nevertheless, at the call and under the auspices of the committee of safety, a mass meeting of citizens was held on that day to protest against the Queen's alleged illegal and unlawful proceedings and purposes. Even at this meeting the committee of safety continued to disguise their real purpose and contented themselves with procuring the passage of a resolution denouncing the Queen and empowering the committee to devise ways and means "to secure the permanent maintenance of law and order and the protection of life, liberty, and property in Hawaii." This meeting adjourned between 3 and 4 o'clock in the afternoon. On the same day, and immediately after such adjournment, the committee, unwilling to take further steps without the cooperation of the United States minister, addressed him a note representing that the public safety was menaced and that lives and property were in danger, and concluded as follows:

> We are unable to protect ourselves without aid, and therefore pray for the protection of the United States forces.

Whatever may be thought of the other contents of this note, the absolute truth of this latter statement is incontestable. When the note was written and delivered the committee, so far as it appears, had neither a man nor a gun at their command, and after its delivery they became so peace-abiding citizens at their petition that they sent some of their number to interview the minister and request him not to land the United States forces till the next morning. But he replied that the troops had been ordered, and whether the committee were ready or not the landing should take place. And so it happened that on the 16th day of January, 1893, between 4 and 5 o'clock in the afternoon, a detachment of marines from the United States steamer *Boston*, with two pieces of artillery, landed at Honolulu. The men, upward of 160 in all, were supplied with double cartridge belts filled with ammunition and with haversacks and canteens, and were accompanied by a hospital corps with stretchers and medical supplies.

This military demonstration upon the soil of Honolulu was of itself an act of war, unless made either with the consent of the Government of Hawaii or for the *bona fide* purpose of protecting the imperilled lives and property of citizens of the United States. But there is no pretense of any such consent on the part of the Government of the Queen, which at that time was undisputed and was both the *de facto* and the *de jure* Government. In point of fact the existing Government, instead of requesting the presence of an armed force, protested against it. There is as little basis for the pretense that such forces were landed for the security of American life and property. If so, they would have been stationed in the vicinity of such property and so as to protect it, instead of at a distance and so as to command the Hawaiian Government building and palace. Admiral Skerrett, the officer in command of our naval force on the Pacific station, has frankly stated that in his opinion the location of the troops was inadvisable if they were landed for the protection of American citizens whose residences and places of business, as well as the legation and consulate, were in a distant part of the city; but the location selected was a wise one if the forces were landed for the purpose of supporting the Provisional Government. If any peril to life and property calling for any such martial array had existed, Great Britain and other foreign powers interested would not have been behind the United States in activity to protect their citizens. But they made no sign in that direction. When these armed men were landed the city of Honolulu was in its customary orderly and peaceful condition. There was no symptom of riot or disturbance in any quarter. Men, women, and children were about the streets as usual, and nothing varied the ordinary routine or disturbed the ordinary tranquillity except the landing of the *Boston's* marines and their march through the town to the quarters assigned them. Indeed, the fact that after having called for the landing of the United States forces on the plea of danger to life and property the committee of safety themselves requested the minister to postpone action exposed the untruthfulness of their representations of present peril to life and property. The peril they saw was an anticipation growing out of guilty intentions on their part and something which, though not then existing, they knew

would certainly follow their attempt to overthrow the Government of the Queen without the aid of the United States forces.

Thus it appears that Hawaii was taken possession of by the United States forces without the consent or wish of the Government of the islands, or of anybody else so far as shown except the United States minister. Therefore the military occupation of Honolulu by the United States on the day mentioned was wholly without justification, either as an occupation by consent or as an occupation necessitated by dangers threatening American life and property. It must be accounted for in some other way and on some other ground, and its real motive and purpose are neither obscure nor far to seek.

The United States forces being now on the scene and favorably stationed, the committee proceeded to carry out their original scheme. They met the next morning, Tuesday, the 17th, perfected the plan of temporary government, and fixed upon its principal officers, ten of whom were drawn from the thirteen members of the committee of safety. Between 1 and 2 o'clock, by squads and by different routes to avoid notice, and having first taken the precaution of ascertaining whether there was anyone there to oppose them, they proceeded to the Government building to proclaim the new Government. No sign of opposition was manifest, and thereupon an American citizen began to read the proclamation from the steps of the Government building, almost entirely without auditors. It is said that before the reading was finished quite a concourse of persons, variously estimated at from 50 to 100, some armed and some unarmed, gathered about the committee to give them aid and confidence. This statement is not important, since the one controlling factor in the whole affair was unquestionably the United States marines, who, drawn up under arms and with artillery in readiness only 76 yards distant, dominated the situation.

The Provisional Government thus proclaimed was by the terms of the proclamation "to exist until terms of union with the United States had been negotiated and agreed upon." The United States minister, pursuant to prior agreement, recognized this Government within an hour after the reading of the proclamation, and before 5 o'clock, in answer to an inquiry on behalf of the Queen and her cabinet, announced that he had done so.

When our minister recognized the Provisional Government, the only basis upon which it rested was the fact that the committee of safety had in the manner above stated declared it to exist. It was neither a government *de facto* nor *de jure*. That it was not in such possession of the Government property and agencies as entitled it to recognition is conclusively proved by a note found in the files of the legation at Honolulu, addressed by the declared head of the Provisional Government to Minister Stevens, dated January 17, 1893, in which he acknowledges with expressions of appreciation the minister's recognition of the Provisional

Government, and states that it is not yet in the possession of the station house (the place where a large number of the Queen's troops were quartered), though the same had been demanded of the Queen's officers in charge. Nevertheless, this wrongful recognition by our minister placed the Government of the Queen in a position of most perilous perplexity. On the one hand she had possession of the palace, of the barracks, and of the police station, and had at her command at least 500 fully armed men and several pieces of artillery. Indeed, the whole military force of her kingdom was on her side and at her disposal, while the committee of safety, by actual search, had discovered that there were but very few arms in Honolulu that were not in the service of the Government.

In this state of things, if the Queen could have dealt with the insurgents alone, her course would have been plain and the result unmistakable. But the United States had allied itself with her enemies, had recognized them as the true Government of Hawaii, and had put her and her adherents in the position of opposition against lawful authority. She knew that she could not withstand the power of the United States, but she believed that she might safely trust to its justice. Accordingly, some hours after the recognition of the Provisional Government by the United States minister, the palace, the barracks, and the police station, with all the military resources of the country, were delivered up by the Queen upon the representation made to her that her cause would thereafter be reviewed at Washington, and while protesting that she surrendered to the superior force of the United States, whose minister had caused United States troops to be landed at Honolulu and declared that he would support the Provisional Government, and that she yielded her authority to prevent collision of armed forces and loss of life, and only until such time as the United States, upon the facts being presented to it, should undo the action of its representative and reinstate her in the authority she claimed as the constitutional sovereign of the Hawaiian Islands.

This protest was delivered to the chief of the Provisional Government, who indorsed thereon his acknowledgment of its receipt. The terms of the protest were read without dissent by those assuming to constitute the Provisional Government, who were certainly charged with the knowledge that the Queen, instead of finally abandoning her power, had appealed to the justice of the United States for reinstatement in her authority; and yet the Provisional Government, with this unanswered protest in its hand, hastened to negotiate with the United States for the permanent banishment of the Queen from power and for a sale of her Kingdom.

Our country was in danger of occupying the position of having actually set up a temporary government on foreign soil for the purpose of acquiring through that agency territory which we had wrongfully put in its possession. The control of both sides of a bargain acquired in such a manner is called by a familiar and unpleasant name when found in private transactions. We are not without a precedent showing how scrupulously

we avoided such accusations in former days. After the people of Texas had declared their independence of Mexico they resolved that on the acknowledgment of their independence by the United States they would seek admission into the Union. Several months after the battle of San Jacinto, by which Texan independence was practically assured and established, President Jackson declined to recognize it, alleging as one of his reasons that in the circumstances it became us "to beware of a too early movement, as it might subject us, however unjustly, to the imputation of seeking to establish the claim of our neighbors to a territory with a view to its subsequent acquisition by ourselves." This is in marked contrast with the hasty recognition of a government openly and concededly set up for the purpose of tendering to us territorial annexation.

I believe that a candid and thorough examination of the facts will force the conviction that the Provisional Government owes its existence to an armed invasion by the United States. Fair-minded people, with the evidence before them, will hardly claim that the Hawaiian Government was overthrown by the people of the islands or that the Provisional Government had ever existed with their consent. I do not understand that any member of this Government claims that the people would uphold it by their suffrages if they were allowed to vote on the question.

While naturally sympathizing with every effort to establish a republican form of government, it has been the settled policy of the United States to concede to people of foreign countries the same freedom and independence in the management of their domestic affairs that we have always claimed for ourselves, and it has been our practice to recognize revolutionary governments as soon as it became apparent that they were supported by the people. For illustration of this rule I need only to refer to the revolution in Brazil in 1889, when our minister was instructed to recognize the Republic "so soon as a majority of the people of Brazil should have signified their assent to its establishment and maintenance;" to the revolution in Chile in 1891, when our minister was directed to recognize the new Government "if it was accepted by the people;" and to the revolution in Venezuela in 1892, when our recognition was accorded on condition that the new Government was "fully established, in possession of the power of the nation, and accepted by the people."

As I apprehend the situation, we are brought face to face with the following conditions:

The lawful Government of Hawaii was overthrown without the drawing of a sword or the firing of a shot by a process every step of which, it may safely be asserted, is directly traceable to and dependent for its success upon the agency of the United States acting through its diplomatic and naval representatives.

But for the notorious predilections of the United States minister for annexation, the committee of safety, which should be called the committee of annexation, would never have existed.

The considerations that international law is without a court for its enforcement and that obedience to its commands practically depends upon good faith instead of upon the mandate of a superior tribunal only give additional sanction to the law itself and brand any deliberate infraction of it not merely as a wrong, but as a disgrace. A man of true honor protects the unwritten word which binds his conscience more scrupulously, if possible, than he does the bond a breach of which subjects him to legal liabilities, and the United States, in aiming to maintain itself as one of the most enlightened nations, would do its citizens gross injustice if it applied to its international relations any other than a high standard of honor and morality. On that ground the United States can not properly be put in the position of countenancing a wrong after its commission any more than in that of consenting to it in advance. On that ground it can not allow itself to refuse to redress an injury inflicted through an abuse of power by officers clothed with its authority and wearing its uniform; and on the same ground, if a feeble but friendly state is in danger of being robbed of its independence and its sovereignty by a misuse of the name and power of the United States, the United States can not fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation.

These principles apply to the present case with irresistible force when the special conditions of the Queen's surrender of her sovereignty are recalled. She surrendered, not to the Provisional Government, but to the United States. She surrendered, not absolutely and permanently, but temporarily and conditionally until such time as the facts could be considered by the United States. Furthermore, the Provisional Government acquiesced in her surrender in that manner and on those terms, not only by tacit consent, but through the positive acts of some members of that Government, who urged her peaceable submission, not merely to avoid bloodshed, but because she could place implicit reliance upon the justice of the United States and that the whole subject would be finally considered at Washington.

I have not, however, overlooked an incident of this unfortunate affair which remains to be mentioned. The members of the Provisional Government and their supporters, though not entitled to extreme sympathy, have been led to their present predicament of revolt against the Government of the Queen by the indefensible encouragement and assistance of our diplomatic representative. This fact may entitle them to claim that in our effort to rectify the wrong committed some regard should be had for their safety. This sentiment is strongly seconded by my anxiety to do nothing which would invite either harsh retaliation on the part of the Queen or violence and bloodshed in any quarter. In the belief that the Queen, as well as her enemies, would be willing to adopt such a course as would meet these conditions, and in view of the fact that both the Queen and the Provisional Government had at one time apparently

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acquiesced in a reference of the entire case to the United States Government, and considering the further fact that in any event the Provisional Government by its own declared limitation was only "to exist until terms of union with the United States of America have been negotiated and agreed upon," I hoped that after the assurance to the members of that Government that such union could not be consummated I might compass a peaceful adjustment of the difficulty.

Actuated by these desires and purposes, and not unmindful of the inherent perplexities of the situation nor of the limitations upon my power, I instructed Minister Willis to advise the Queen and her supporters of my desire to aid in the restoration of the status existing before the lawless landing of the United States forces at Honolulu on the 16th of January last if such restoration could be effected upon terms providing for clemency as well as justice to all parties concerned. The conditions suggested, as the instructions show, contemplate a general amnesty to those concerned in setting up the Provisional Government and a recognition of all its *bona fide* acts and obligations. In short, they require that the past should be buried and that the restored Government should reassume its authority as if its continuity had not been interrupted. These conditions have not proved acceptable to the Queen, and though she has been informed that they will be insisted upon and that, unless acceded to, the efforts of the President to aid in the restoration of her Government will cease, I have not thus far learned that she is willing to yield them her acquiescence. The check which my plans have thus encountered has prevented their presentation to the members of the Provisional Government, while unfortunate public misrepresentations of the situation and exaggerated statements of the sentiments of our people have obviously injured the prospects of successful Executive mediation.

I therefore submit this communication, with its accompanying exhibits, embracing Mr. Blount's report, the evidence and statements taken by him at Honolulu, the instructions given to both Mr. Blount and Minister Willis, and correspondence connected with the affair in hand.

In commending this subject to the extended powers and wide discretion of the Congress I desire to add the assurance that I shall be much gratified to cooperate in any legislative plan which may be devised for the solution of the problem before us which is consistent with American honor, integrity, and morality.

GROVER CLEVELAND.

REPORT PREPARED BY MELODY MACKENZIE AND JON VAN DYKE

REGARDING THE LEGAL ASPECTS

For submission to the

NATIVE HAWAIIAN STUDY COMMISSION

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I. The Question of Agency

The Native Hawaiian Study Commission is about to adopt a finding that acknowledges the role of Minister Stevens and American troops in overthrowing the Kingdom of Hawaii, but absolves the United States of responsibility. The Commission reasons that since the actions of Stevens and of Capt. Wiltse were not specifically "authorized" by the President or Congress, the United States is not liable for any harm which resulted. The legal question presented by the Commission's finding and conclusion is whether the United States is responsible for the actions of its agents even if the actions are not authorized. This is basically a question of agency and under principles of law developed in England and the America, the United States would be liable.

The concept of agency is based on the idea that "he who acts through another, acts himself." See, eg., New Orleans, J. & Great N.R.R. v. Bailey, 40 Miss. 395, 452-453 (1866) ("the act of the agent is the act of the principal himself . . . an incident which the law has wisely attached to the relation, from its earliest history"); 1 W. Blackstone, Commentaries 432 ("wrong done by servant is looked upon in law as the wrong of the master himself"). In contract law, a principal is bound by the acts of his agent where the agent acts with the authority of the principal or appears to act with that authority. In tort law, an employer or master is liable for tortious acts committed by his employee (servant) within the scope of employment or in order to further the employer's interest. In the earliest cases, whether it was the master or his servant who physically committed a tort, the master was legally regarded as the person who caused the harm. Indeed, in some jurisdictions, one could state a cause of action by pleading the acts of the agent as the acts of the principal. See, eg., Bennett v. Judson, 21 N.Y. 238, 239-240 (1860) ("The same rule of law which imputes to the principal the fraud of the agent, and makes him answerable for the consequences, justifies the allegation in pleading, that the principal himself committed the wrong"); Holmes, Agency (pt. 2), 5 Harvard L. Rev. 20 (1892).

This rule which holds the principal responsible for the actions of his agent is well accepted in our jurisprudence when transactions or situations involve private individuals and corporations. The issues becomes more complex when looking at the liability of governmental bodies because of the principle of governmental immunity, which shields the government from suits. Immunity is rooted, in part, on the the early English concept that "the king can do no wrong." Thus, at common law, state and federal governments were immune from suit and from liability for the actions of their agents. Municipalities had a more limited immunity and were subject to suit, for instance, for torts committed by their employees performing "proprietary" functions - functions performed by the city but which could have been provided by a private corporation (eg., water,

gas, electricity).

While the governmental immunity doctrine at first glance indicates that the United States may not be liable for the actions of its agents, it is important to remember that governmental immunity does not affect the substantive law of agency. Immunity merely shields the government from suit and is a device to prevent any suits from being filed against the government. Congress can and often has waived the immunity of the United States. The Federal Tort Claims Act, 28 USC §§1346, 2671 et seq., permits suits against the federal government for negligent acts of its employees and for some intentional torts committed by law enforcement personnel. The Indian Claims Commission Act, discussed extensively in OMA's earlier submission to the NHBC, allowed variour tribal claims against the United States including those based on tort and on fair and honorable dealings not recognised by any existing rule of law or equity. Some states have waived immunity in tort cases completely, see, eg., Hawaii Rev. Stats. §662-2 (1976), and the modern trend is to allow suits to be brought against governmental bodies in specific situations.

The following cases illustrate the types of situations in which the courts have found a governmental body liable for the acts of its employees and agents.

Municipalities Found Liable

In City of Lexington v. Yank, 431 SW 2d 892 (Ky. 1968), the City of Lexington was held liable for personal

injuries and medical expenses which resulted from an assault and battery by a police officer after the officer stopped an auto for a traffic violation, assaulted a passenger with a blackjack and handcuffed and threw the passenger in a paddywagon. The court noted that the principal-agent and master-servant relationships within the scope of the respondeat superior doctrine (allowing one party to be held liable for another's actions) do exist between a municipal corporation and its employees and agents. In a similar case, the City of Miami was held liable for the actions of police where an innocent bystander standing on a balcony watching a disturbance was killed by the negligent firing of a gun by a police officer. The court stated that where the officer was negligent, the city would be held liable. Cleveland v. City of Miami, 263 So. 2d 573 (Fla. 1972). In Orso v. City and County of Honolulu, 56 Haw. 241, 534 P. 2d 489 (1975), the City and County of Honolulu was held liable under a respondeat superior theory for the acts of the City Prosecutor where the plaintiff was arrested, indicted for murder, incarcerated without bail for two weeks, and only released several days after a deputy prosecutor had determined that the plaintiff was not involved in the murder.

Federal Tort Claims Act

Under the FTCA, sovereign immunity is waived and the United States may be held liable for the negligence of its employees where, applying the law of the place in which

the violation or injury occurred, a private individual under like circumstances would be liable. Consequently, in Thompson v. United States, 504 F. Supp. 1087 (C.D.S.D. 1980), the United States was held liable in a wrongful death action where a CETA trainee employed as a police officer by the Sioux Tribe shot and killed a man. Applying the law of South Dakota, the court held that an employer-master is liable for the acts of an employee within the general scope of his employment, while engaged in his master's business and done with a view to furtherance of that business and the master's interest, even where, as in this instance, the acts were done wantonly and willfully. In DeWeese v. United States, 419 F. Supp. 47, aff'd 576 F.2d 802 (1977), the federal government was held liable for the negligence of an air traffic controller where a crash resulted from the controller's failure to inform the aircraft's pilot of a change in the altimeter setting and change of ceiling during approach. In Allegheny Airlines, Inc. v. United States, 420 F. Supp. 1339, rev'd in part on other grounds, 586 F. 2d 53 (1978), the federal government again was held liable for the negligence of an air traffic controller, resulting in the mid-air collision of a Piper Cherokee plane and an Alleghany Airline flight where the air traffic controller didn't see the radar target for the small aircraft and didn't provide proper radar services. Finally, in Cruikshank v. United States, 467 F. 2d 539 (D. Haw. 1979), the United States was held liable for invasion of privacy resulting from actions of CIA agents in intercepting and opening correspondance between plaintiff and persons in the Soviet Union.

Constitutional Torts

A third type of case in which governmental entities have been found liable for conduct of their employees is the constitutional tort situation. Under the Civil Rights Act of 1871, 42 USC §1983, any person acting under color of state law who deprives another person of a federal constitutional right is subject to a damage action. Until 1978, this provision was read to mean that state and municipal government officials acting in their individual capacities could be held liable for depriving an individual of a constitutional right. However, in Monell v. Department of Social Services, 436 U.S. 658 (1978), the Supreme Court held that a municipality would be liable for violations of constitutional rights committed by its officers in carrying out an "official policy" of the municipality. As a result of the Monell decision, the courts have begun to impose liability not only on the individual government official, but also upon the governmental entity. In Herrera v. Valentine, 653 F.2d 1220 (8th Cir. 1981), a police officer and his employer, the city of of Gordon, Nebraska, were held liable for violating the constitutional rights of a pregnant woman when the officer kicked her and ignored her pleas for medical attention, resulting in the death of her unborn child and severe emotional and physical trauma. The plaintiff's claim against the City of Gordon was based on the City's failure to properly hire, train, retain, supervise, discipline and control its police officers, thereby directly causing her injury. In another civil rights violation, the city of Houston was found liable for the conduct of their police officers who shot a 17 year old unarmed suspect, put a weapon at his side to justify the killing, and covered up their conduct. Webster v. City of Houston, 689 F.2d 1220 (5th Cir. 1982).

The Actions of U.S. Agents in 1893

The cases reviewed above make it obvious that under current law the United States would be responsible for the actions of its agents in Hawaii in aiding in the overthrow of the Hawaiian monarchy. The United States clearly owes a responsibility to the victims against whom its authority was exercised, even if such authority was improperly exercised. In a modern day situation, when a police officer in uniform uses a gun to injure a citizen without cause, the police officer is liable to compensate the victim for the injuries received and the county that employed the police officer is also liable. City of Lexington, supra; Cleveland v. City of Miami, supra. The United States, as well as municipalities, is held liable for the unauthorized actions of its employees and agents. Thompson v. United States, supra; Cruikshank v. United States, supra.

The theory behind this rule of liability rests on two sound principles. First, the government or employer of the agent is better able to absorb the loss and spread it among the citizenry than is the victim who may be injured and unable to earn a living after the assault or wrongdoing. Second, the government that employed the agent could have taken actions to prevent this type of occurrence by carefully screening persons is hires and giving them better training about their responsibilities.

If we apply this principle to the actions of Minister Stevens and Capt. Wiltse in 1893, we would appear to reach the result that the government is liable for the harm suffered by the victims of the agents of the United States government. The government had the capacity to carefully select its agents and the opportunity to train the agents about the proper use of authority. If a government sends agents to an island kingdom over 5,000 miles away from the government's capital, the government must expect the agents to exercise a certain amount of discretion with regard to the use of their power. A government must therefore anticipate the types of actions that are appropriate and instruct the agents appropriately. If the government fails to carefully instruct its agents, and the agents use their power to harm the citizens of the kingdom, the government which sent the agents with their military power must logically bear responsibility for the agents' action.

The extent of the harm and the extent to which the government subsequently tried to correct the harm are of course relevant in determining how much compensation is owed. But the principle seems to be clear that a government that sends agents who commit acts that contribute to an overthrow must bear responsibility for the actions of the agents.

II. The Effect of the Kuleana Act of 1850

A second issue raised by members of the Native Hawaiian Study Commission concerns the effect of the Kuleana Act of 1850 on the interests of the maka'ainana in Government and Crown Lands. The Constitution of 1840 declared that all of the land of the kingdom had belonged to Kamehameha I, but "it was not his own private property. It belonged to the chiefs and people in common, of whom Kamehameha I was the head, and had the management of the landed property."

In the early part of 1848, the Great Mahele began. First, Kamehameha III signed agreements with the 251 major Chiefs to divide almost all the land of Hawaii between the King and the Chiefs. The day after these divisions were completed, the King divided his portion of the land into two parts. Kamehameha III set apart "forever to the chiefs and the people" approximately 1.5 million acres of land. He retained for himself, his heirs and successors approximately 1 million acres of land. By the Act of June 7, 1848, the legislature accepted the lands conveyed to the Chiefs and People by Kamehameha III and acknowledged his decision to keep certain lands for himself and his heirs. (See Appendix

A.) The former became known as Government Lands and the latter as Crown Lands.

Subsequently, the Kuleana Act of 1850 (see Appendix B) allowed native tenants to claim land which they lived upon and actually cultivated. These lands could come from Government or Crown Lands or from lands which belonged to the chiefs. The ability of native tenants to claim their plots of land under the Kuleana Act did not extinguish the people's interest in the Government lands. Indeed, the native tenants were only a portion of the larger class of people. The fact that the tenants could claim their plots from lands belonging to the Chiefs as well as Government and Crown Lands indicates that the Kuleana Act was not meant to extinguish the interest of the people in Government Lands and Crown lands. If the Kuleana Act was meant as an extinguishment of the people's interest, then the Act would have allowed lands to be claimed solely from Government Lands and would have allowed all the people, not just those with existing houses and cultivated plots, to claim land. Moreover, there is nothing in the legislative history of the Kuleana Act to indicate that it was meant to extinguish the interests of the people. Finally, the Kuleana Act also allowed native Hawaiians who did not have cultivated plots to purchase Government Lands. Obviously, if the Act was meant to extinguish the rights of the people to Government Lands by separating out those rights, there would have been no need for native Hawaiians to purchase the lands, they

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would merely have been given a portion of the land as their interest in the land.

While the Crown Lands present a unique situation, their history has been extensively discussed in earlier submissions to the NHSC. (See excerpt in Appendix C.) It is clear that the Kuleana Act was not meant to have any effect on the Crown Lands since they were dealt with by the various monarchs as private property until the Act of 1865 making them inalienable.

Although the Native Hawaiian Study Commission has now more or less completed its work, the question of whether Hawaiians are entitled to reparations or restitution for the events of 1893 remains an open one. The legal questions are still unresolved. The Commission's confusion about the most basic aspects of the Great Mahele and their failure to address the issue of agency indicates how much more work they need to do before recommendations on reparations and restitution should be adopted.

APPENDIX A

Declaration of Kamehameha III Setting Apart Government Lands

Know all men by these presents, that I, Kamehameha III., by the grace of God, King of these Hawaiian Islands, do hereby give, make over and set apart forever to the chiefs and people of my Kingdom, and convey all my right, title and interest in the lands situated here in the Hawaiian Islands, inscribed on pages 179 to 225, both inclusive, of this book [the Mahele Book], to have and to hold to my chiefs and people forever.

These lands are to be in the perpetual keeping of the Legislative Council (Nobles and Representatives) or in that of the superintendents of said lands, and shall be regulated, leased, or sold, in accordance with the will of said Nobles and Representatives, for the good of the Hawaiian Government, and to promote the dignity of the Hawaiian Crown.

March 8, 1848

As translated by the Hawaii Supreme Court in Estate of Kamehameha IV, 2 Haw. 715 (1864).

14

Declaration of Kamehameha III Setting Apart King's Lands

Know all men by these presents, that I, Kamehameha III., by the grace of God, King of these Hawaiian Islands, have given this day of my own free will and made over and set apart forever to the chiefs and people the larger part of my royal land, for the use and benefit of the Hawaiian Government, therefore by this instrument I hereby retain (or reserve) for myself and my heirs and successors forever, my lands inscribed at pages 178, 182, 184, 190, 194, 200, 204, 206, 210, 212, 214, 216, 218, 220, 222, of this book [the Mahele Book], these lands are set apart for me and for my heirs and successors forever, as my own property exclusively.

March 8, 1848

As translated by the Hawaii Supreme Court in Estate of Kamehameha IV, 2 Haw. 715 (1864).

15

Crown, Government and Fort Lands, Enumerated, Etc.

Crown, Government and Fort Lands: L. 1848, p. 22; O. C., p. 374.

AN ACT RELATING TO THE LANDS OF HIS MAJESTY THE KING AND OF THE GOVERNMENT.

Whereas, It hath pleased His Most Gracious Majesty Kamehameha III, the King, after reserving certain lands to himself as his own private property, to surrender and forever make over unto his Chiefs and People, the greater portion of his Royal Domain:

And Whereas, It hath pleased our Sovereign Lord the King, to place the lands so made over to his Chiefs and People, in the keeping of the House of Nobles and Representatives, or such person or persons, as they may from time to time appoint, to be disposed of in such manner as the House of Nobles and Representatives may direct, and as may best promote the prosperity of this kingdom and the dignity of the Hawaiian Crown: Therefore,

Be It Enacted by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled:

That, expressing our deepest thanks to His Majesty for this noble and truly royal gift, we do hereby solemnly confirm this great act of our good King, and declare the following named lands, viz.:

(list of lands given)

To be the private lands of His Majesty Kamehameha III, to have and to hold to himself, his heirs, and successors, forever; and said lands shall be regulated and disposed of according to his royal will and pleasure subject only to the rights of tenants.

And be it further enacted, That we do hereby in the name of the Chiefs and People of the Hawaiian Islands, accept of the following lands, viz:

(list of lands given)

16

Made over to the Chiefs and People, by our Sovereign Lord the King, and we do hereby declare those lands to be set apart as the lands of the Hawaiian Government, subject always to the rights of tenants. And we do hereby appoint the Minister of the Interior and his successors in office to direct, superintend, and dispose of said lands, as provided in the Act to organize the Executive Departments, done and passed at the Council House in Honolulu, the 27th day of April, A. D., 1846: Provided, however, that the Minister of the Interior and his successors in office shall have the power, upon the approval of the King in Privy Council, to dispose of the government lands to Hawaiian subjects, upon such other terms and conditions as to him and the King in Privy Council, may seem best for the promotion of agriculture, and the best interests of the Hawaiian Kingdom:

And Be It Further Enacted, That, in accordance with ancient custom, the following land, viz.:

(list of lands given)

Shall be and the same are hereby set apart for the use of the Fort in Honolulu to be cultivated by soldiers and other tenants under the direction of the Governor of Oahu, and his successors in office, native born Chiefs of the Hawaiian Islands, according to the instructions of the Minister of the Interior and his successors in office, approved by the King in Privy Council.

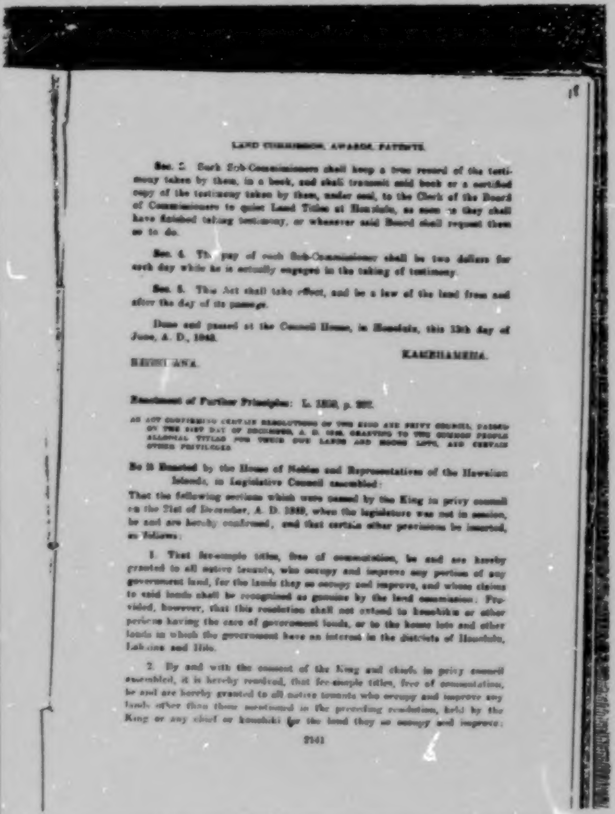
Done and passed at the Council House, in Honolulu, this 7th day of June, A. D., 1848.

KAMEHAMEHA.

KEONI ANA.

17

APPENDIX B



Sec. 3. Such Sub-Commissioners shall keep a true record of the testimony taken by them, in a book, and shall transmit said book or a certified copy of the testimony taken by them, under seal, to the Clerk of the Board of Commissioners to quiet Land Titles at Honolulu, as soon as they shall have finished taking testimony, or whenever said Board shall request them so to do.

Sec. 4. The pay of each Sub-Commissioner shall be two dollars for each day while he is actually engaged in the taking of testimony.

Sec. 5. This Act shall take effect, and be a law of the land from and after the day of its passage.

Done and passed at the Council House, in Honolulu, this 13th day of June, A. D., 1848.

KAMEHAMEHA.

KEONI ANA.

Enactment of Further Principles: L. 1850, p. 202.

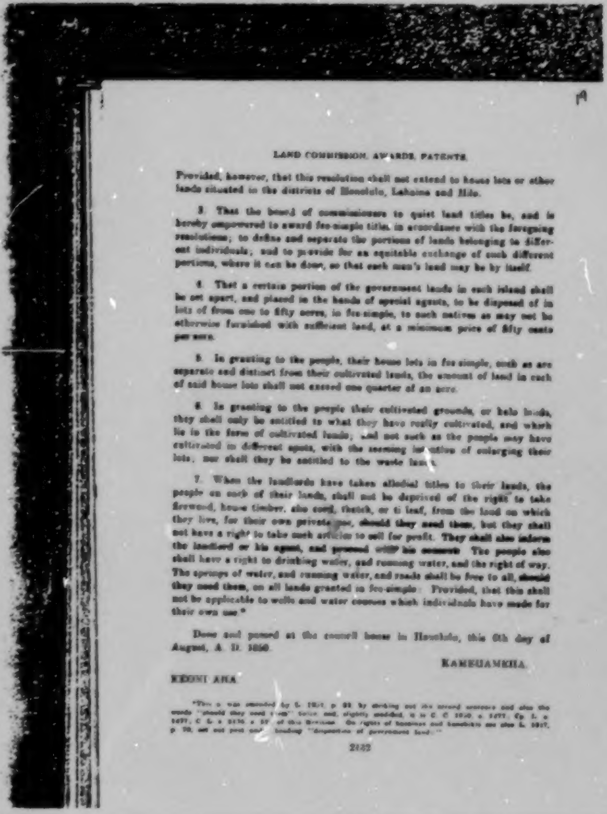
AN ACT CONFIRMING CERTAIN RESOLUTIONS OF THE KING AND PRIVY COUNCIL, PASSED ON THE 21ST DAY OF DECEMBER, A. D. 1849, GRANTING TO THE COMMON PEOPLE ALLODIAL TITLES FOR THEIR OWN LANDS AND HOUSE LOTS, AND CERTAIN OTHER PRIVILEGES.

Be It Enacted by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled:

That the following sections which were passed by the King in privy council on the 21st of December, A. D. 1849, when the legislature was not in session, be and are hereby confirmed, and that certain other provisions be inserted, as follows:

1. That fee-simple titles, free of commutation, be and are hereby granted to all native tenants, who occupy and improve any portion of any government land, for the lands they so occupy and improve, and whose claims to said lands shall be recognized as genuine by the land commission: Provided, however, that this resolution shall not extend to konohikis or other persons having the care of government lands, or to the house lots and other lands in which the government have an interest in the districts of Honolulu, Lahaina and Hilo.

2. By and with the consent of the King and chiefs in privy council assembled, it is hereby resolved, that fee-simple titles, free of commutation, be and are hereby granted to all native tenants who occupy and improve any lands other than those mentioned in the preceding resolution, held by the King or any chief or konohiki for the land they so occupy and improve:



Provided, however, that this resolution shall not extend to house lots or other lands situated in the districts of Honolulu, Lahaina and Hilo.

3. That the board of commissioners to quiet land titles be, and is hereby empowered to award fee-simple titles in accordance with the foregoing resolutions; to define and separate the portions of lands belonging to different individuals; and to provide for an equitable exchange of such different portions, where it can be done, so that each man's land may be by itself.

4. That a certain portion of the government lands in each island shall be set apart, and placed in the hands of special agents, to be disposed of in lots of from one to fifty acres, in fee-simple, to such natives as may not be otherwise furnished with sufficient land, at a minimum price of fifty cents per acre.

5. In granting to the people, their house lots in fee-simple, such as are separate and distinct from their cultivated lands, the amount of land in each of said house lots shall not exceed one quarter of an acre.

6. In granting to the people their cultivated grounds, or kalo lands, they shall only be entitled to what they have really cultivated, and which lie in the form of cultivated lands; and not such as the people may have cultivated in different spots, with the seeming intention of enlarging their lots; nor shall they be entitled to the waste lands.

7. When the landlords have taken allodial titles to their lands, the people on each of their lands, shall not be deprived of the right to take firewood, house timber, aho cord, thatch, or ti leaf, from the land on which they live, for their own private use, should they need them, but they shall not have a right to take such articles to sell for profit. They shall also inform the landlord or his agent, and proceed with his consent. The people also shall have a right to drinking water, and running water, and the right of way. The springs of water, and running water, and roads shall be free to all, should they need them, on all lands granted in fee-simple: Provided, that this shall not be applicable to wells and water courses which individuals have made for their own use.*

Done and passed at the council house in Honolulu, this 6th day of August, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

*This § was amended by L. 1851, p. 98, by striking out the second sentence and also the words "should they need them" [illegible]

APPENDIX C

ancient land tenure system, no concept similar to fee simple ownership existed. Neither the king, the chiefs, nor the people "owned" the land in the Western sense. Instead, the land was viewed as belonging to the gods, although each strata of Hawaiian society had certain use rights in the land. The ali'i or chiefs managed the land while the people worked the land for the common good.52/

After the islands were united, Native Hawaiians formed a politically cohesive unit under the rule of Kamehameha I. Island governors were appointed, basic laws were declared. In 1840, the first constitution was passed, declaring that all of the land of the kingdom had belonged to Kamehameha I, but "it was not his own private property. It belonged to the chiefs and people in common, of whom Kamehameha I was the head, and had the management of the landed property."53/ This statement appears to embody the common use and ownership concept of the ancient land tenure system. Thus, prior to the Mahele of 1848, Native Hawaiians appear to have practiced a type of communal "ownership" of all the land of Hawaii.

In 1848 the Great Mahele, or division of land, "finally and conclusively established the principle of private allodial titles."54/ The intended goal of the Land Commission Board and of the Mahele was to be a total partition of individual interests, including a division and separation of the interests of the common people.

An important aspect of the Great Mahele was Kamehameha III's action setting "apart forever to the chiefs and the people of my kingdom" approximately 1.5 million acres of land. At the same time, he retained for himself, his heirs and successors approximately 1 million acres. The former lands were known as Government Lands and the latter as Crown Lands.

In designating certain lands for the chiefs and people, Kamehameha III continued and confirmed the collective ownership of those lands by the Native Hawaiian people. He did not extinguish the aboriginal interest in Government Lands but strengthened that interest. By the Act of June 7, 1848, a grateful legislature accepted the Government Lands conveyed by Kamehameha III.55/ In accepting the lands, the legislature affirmed the peoples' collective rights in the lands and specifically recognized the traditional use rights of native tenants. From 1848 to 1893, the Government Lands were administered by the Minister of the Interior for the benefit of the Hawaiian native government and any sales of such lands were subject to approval by the King in Privy Council. Consequently, it could be argued that all Government Lands as of 1893 were still impressed with aboriginal or native title.

When Kamehameha III set apart the Government Lands, he also signed and sealed an instrument creating the King's Lands.56/ Until 1864, these lands were dealt with by the various monarchs as private property. In 1864, the Hawaii Supreme Court denied the claim of Queen Emma, widow of Kamehameha IV, to an intestate share of the lands, holding that the King's Lands descended in fee, although the inheritance of those lands was limited to successors to the throne and could be treated as private property.57/ The Act of January 3, 1865, confirmed the court's opinion in part but also provided that the lands should be "inalienable . . . [to] descend to the heirs and successors of the Hawaiian crown forever."58/ The Act also designated the lands as Crown Lands to indicate that they belonged to the king as sovereign and not as an individual.

In the years from 1865 to 1893, the Crown Lands continued to provide income to the reigning monarchs. The hereditary monarchy ended upon the death of Kamehameha V without a successor to the throne. William Lunalilo and then David Kalakaua were elected to the throne and the Crown Lands supported their reign as well as the brief reign of Liliuokalani. The Crown Lands, after the Act of January 3, 1865, were not the personal property of the monarch. When Liliuokalani sought compensation from the United States for the taking of the Crown Lands, the Court of Claims held that the reservation of lands was

> made to the Crown and not the King as an individual. The crown lands were the resourceful method of income to sustain, in part at least, the dignity of the office to which they were inseparably attached. When the office ceased to exist they became as other lands of the sovereignty and passed . . . as part and parcel of the public domain.59/

The Crown Lands were a domain which benefited "the dignity" of the native monarchs and were a unique symbol of the Hawaiian government and native people. The interest Native Hawaiians held in these lands could be considered analogous to an aboriginal title interest.

The Kuleana Act (and other legislation passed subsequent to the Great Mahele) allowed individual Native Hawaiians to claim a fee simple interest in lands they had actually cultivated or, in the case of other Native Hawaiians, to obtain fee simple title to Government Lands by purchase.60/ Land, including Government and Crown lands, was made available for purchase by foreigners.61/ These lands which went into the private hands were no longer held in common by Native Hawaiians, but were owned in fee simple and resulted in vested property rights. Native Hawaiians are not asserting aboriginal interest claims to the lands which passed into the fee ownership system, although all lands in Hawaii appear to be subject to native rights.

In summary, Native Hawaiians appear to meet the first requirement of aboriginal title, they constituted a single landowning entity. Prior to 1819, they had common cultural, language, economic, and kinship ties, and collective rights in the land. After 1819, the Hawaiian Kingdom, a politically cohesive unit comprised of and accepted by Native Hawaiians, was the "single landowning entity" which held title to Government and Crown lands.

The second and third tests for aboriginal title are that the single landowning entity had actual and exclusive

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November 23, 1982

Native Hawaiian Study Commission
U.S. Department of Interior
18 C St. Northwest
Rm. 6220
Washington, D.C. 20240

The following pages is a petition to extend the deadline for comments and questions concerning the "Native Hawaiian Study Commission Report" It also includes a [illegible] for community education which is very much needed on such an important issue.

Mahalo Nui Loa
The Undersigned

We, the undersigned, request that the deadline date of November 23, 1982, for questions and/or comments concerning the "Native Hawaiian Study Commission Report" be extended to enable us (the undersigned) the time to read and comprehend said report for there has not been enough copies available nor has there been any community education of the said report. With this extended time, we (the undersigned) and others may be able to respond more readily to such an important issue.

[illegible]	[illegible]	[illegible]	[illegible]
Mary Muller	Mary Muller	156445088	59-605 [illegible]
Andrew [illegible]	Andrew [illegible]	[illegible]	[illegible]
Corey Williams	Corey Williams	575-84-[illegible]	66-138 [illegible]
[illegible]	[illegible]	576-30-[illegible]	94-1026 [illegible] St.
[illegible]	[illegible]	213-68-[illegible]	66-93 [illegible] St
Peter Burke	Peter Burke	575-68-[illegible]	94-316 [illegible] Place
[illegible] Chang	[illegible] Chang	576 50 1093	44-1956 Akau Pl
Ayonne Young	Ayonne Young	576-73-7758	409 Kam Hwy.
[illegible]	[illegible]	[illegible]	87-839 [illegible]
Claire Nakayama	Claire Nakayama	576-13-5725	[illegible]
Renee [illegible]	Renee [illegible]	575-15-[illegible]	330 B [illegible]
Joe Flores	Joe Flores	576-34-9477	921 [illegible] Pl.
JANICE ORITA	[illegible]	576-64-[illegible]	94-971 [illegible] St.
[illegible]	[illegible]	575-50-[illegible]	157 [illegible] St
[illegible]	[illegible]	555-64-0811	Box 547 [illegible]
[illegible]	Val [illegible]	573-58-2993	2745C HAKO LOOP
STEWART E. WILSON	Stewart E. Wilson Jr.	539-50-1396	1327 A-1 [illegible] ST 96817
Wesley Fong	Wesley Fong	[illegible]	3925 Ala Ilima St 96818
[illegible]	[illegible]	575-86-2076	99-111 A [illegible] ST. 96701
[illegible]	[illegible]	123 963 [illegible]	690 [illegible] Dr.
[illegible] K. Poe	[illegible] K. Poe	575 54 0196	55-191 [illegible] St.
Faith Goodson	Faith Goodson	631-6072	[illegible]-330 [illegible]
David C.B. [illegible]	David C.B. [illegible]	623-2175	94-255 [illegible] Dr. 96782

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[illegible]	[illegible]	[illegible]	[illegible]
DARRELL [illegible]	[illegible]	575-70-6196	2458 [illegible] Ln.
MAXINE BOYLE	Maxine Boyd	576-64-2077	[illegible] St.
Kelly Wong	Kelly Wong	575-91-5351	94-1020 Kanaia Pl
Michelle [illegible]	M. [illegible]	[illegible]96-2765	P.O. Box 717 Waianae Hi
[illegible]	[illegible]	576-06-2986	1506 [illegible] St.
[illegible]	[illegible]	576-62-7971	94-1118 [illegible] Pl.
[illegible]	[illegible]	[illegible]-0758	2226 [illegible] St
CAROLYN [illegible]	Carolyn [illegible]	575-49-[illegible]	1275 [illegible] St.
[illegible]	[illegible]	575-76-[illegible]	[illegible]
Cheryl Crabbe	Cheryl Crabbe	576-11-3446	94-528 [illegible] St. 96797
[illegible]	[illegible]	576-15-[illegible]	96-229 [illegible] St. 96744
Danelle Dubord	Danelle Dubord	575-90-1005	2118 Aawa Loop 96782
CATHERINE E. [illegible]	Catherine E. [illegible]	576-66-6257	[illegible] St. 101
[illegible]	JASON [illegible]	576-82-[illegible]	1450 [illegible] St 96782
Penny Sagario	Penny Sagario	576 92-6786	[illegible]
Rose Marie [illegible]	Rose Marie [illegible]	575-76-[illegible]	908 [illegible]
LLOYD [illegible]	[illegible]	575[illegible]3	92711 [illegible] St
SHARON [illegible]	Sharon [illegible]	[illegible]74583	1928 B [illegible] Pl. [illegible]
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	1755-6 [illegible]
Gretchen Ho	Gretchen Ho	623-8896	95-016 Waikalani Dr. 305
Chantal Yi	Chantal Yi	575-02-[illegible]	94-606 [illegible] St. Mililani
DEREK [illegible]	[illegible]	575-76-[illegible]	1031 [illegible]

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[illegible]	[illegible]	[illegible]	[illegible]
Rita Kanai-Gill	Rita Kanai-Gill	575-56-[illegible]	9104 [illegible] Dr.
Keala Ah Sam	Keala Ah Sam	576-74-20[illegible]	1429 BRIGHAM [illegible]
[illegible]	[illegible]	575-52-3810	94-362 [illegible] St
[illegible]	[illegible]	575-30-[illegible]	6-51 [illegible] St
ABE AHMAD	Abe Ahmad	576-38-[illegible]	833 [illegible] AVE.
JOHN [illegible]	John [illegible]	537-6991	3979 [illegible] DR.
Bernard K. Punikaia	[illegible]	576-42-7598	[illegible] Pl. 96[illegible]
Harvey Otto	Harvey Otto	575-54-4514	48-140 B [illegible]
SOL. [illegible]	Sol [illegible]	575-42-3713	[illegible]
[illegible]	[illegible]	576-62-5143	52 [illegible] Str. [illegible]
[illegible]	[illegible]	575-36-0297	General Delivery [illegible]
Rose P. Rosa	Rose P. Rosa	576-46-1472	[illegible] Pearl City 96782
Carol Iwata	Carol Iwata	576-80-7283	1409 [illegible] Pearl City Hi 96782
Sharon Ikeda	Sharon Ikeda	575-80-[illegible]	92-585 [illegible] St. Ewa Beach Hi 96706
Kathy Au	Kathy Au	[illegible]	[illegible]
[illegible]	[illegible]	576-11-3573	94-420 [illegible] St
ANNETTE NAO	Annette L. Nao	92-761	[illegible] St. Ewa Beach
[illegible] K. [illegible]	[illegible] K. [illegible]	575-62-9208	47-76 [illegible]
[illegible]	[illegible]	575 96 7802	94-716 [illegible]
Faasavali S. [illegible]	[illegible]	576-62-[illegible]	95-461 [illegible] Dr. [illegible] Mililani
[illegible] Mose	[illegible] Mose	575-86-5027	94-111 [illegible]
[illegible]	[illegible]	576-06-6728	[illegible] Rd [illegible]
[illegible]	Dorothy M. Hutton	575-54-0882	97-119 F-101 [illegible] St.
[illegible] K. [illegible]	[illegible] K. [illegible]	575-76-[illegible]	94-031 [illegible] St.

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	[illegible]	[illegible]	[illegible]	[illegible]
1.	Ilima Kauka Williams	Ilima K. Williams	576-28-3508	3695 Holua Pl Hon. HI 96819
2.	Victor Corpuz	Victor Corpuz	575-90-6830	94-1171 [illegible] St. Waipahu, HI 96797
3.	Diane C. Sturgeon	Diane C. Sturgeon	576-60-2479	[illegible] Pearl City HI 96782
4.	[illegible]	[illegible]	[illegible]	[illegible]
5.	[illegible]	[illegible]	[illegible]	[illegible] Waipahu HI 96797
6.	Wallace L. Kealoha Jr.	Wallace L. Kealoha Jr.	576-06-1647	94-341 [illegible] Pl. Aiea, HI 96701
7.	[illegible] K. [illegible]	[illegible]	576-04-7992	[illegible]
8.	Alicia Castillo	[illegible]	[illegible]	[illegible]
9.	[illegible]	[illegible]	576-04-6614	[illegible] Rd. [illegible] [illegible] HI 96[illegible]
10.	[illegible]	[illegible]	576-84-3553	[illegible] Pearl City HI [illegible]
11.	[illegible]	[illegible]	575 86 9538	791 [illegible] St. Pearl City, HI 96782
12.	Helen P. Neves	Helen P. Neves	576-28-6574	1969 [illegible] St. Pearl City HI 96782
13.	Laura Yoshida	Laura Yoshida	575-60-[illegible]	[illegible]
14.	[illegible]	[illegible]	576-44-3883	47-219 Kam Hwy. Kaneohe HI 96744
15.	Joseph [illegible]	Joseph [illegible]	575-90-[illegible]	[illegible] Dr. Ewa Beach HI [illegible]
16.	ELAINE WHITE	[illegible]	575-90-0670	[illegible] [illegible] HI 96816
17.	Thomas W. Clark	Thomas W. Clark	576-76-7701	94-117 [illegible] Mililani, HI 96789
18.	[illegible] Lee	[illegible] Lee	576-57-4953	[illegible] Honolulu, Hawaii 96814
19.	[illegible]	[illegible]	575-88-3392	[illegible] Ewa Beach, HI 96706
20.	[illegible]	[illegible]	575-53-1910	94-659 [illegible] Pl. Waipahu, HI 96797
21.	Victor A. Pastoral	Victor A. Pastoral	579-92-6342	98-2046 [illegible] AIEA 96701
22.	Merrill Beck	[illegible]	529-98-0904	53-639 [illegible] Rd. [illegible]
23.	Valerie Gatuan	Valerie Gatuan	576-80-0056	1505 [illegible] St P.C. HI 96782
24.	Annette Tolentino	Annette Tolentino	575-04-9975	[illegible] [illegible] HI [illegible]

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NAME	SIGNATURE	[illegible]	ADDRESS
Malia Messengill	Malia Messengill	576-99-1026	87-907 [illegible] St Waianae, Hi. 96792
Carrie Jokeghe	Carrie Jokeghe	576-92-9675	87-1053 [illegible] [illegible]
Debora [illegible]	Debora [illegible]	576-98-0893	87-207 [illegible] Rd. Waianae, Hi. 96792
[illegible] Alcaraz	[illegible] Alcaraz	575-94-6924	94-447 [illegible] St Waipahu HI 96797
Amy Watashima	Amy [illegible]	576-04-[illegible]	98-637 [illegible] St [illegible]
Renee Suzuki	Renee B. Suzuki	576-72-0650	98-1721 [illegible] St Aiea, Hi 96701
Jessie Omine	Jessie Omine	575-68-7774	98-1112 [illegible] St Aiea, Hi. 96701
Maureen Takayama	Maureen N. Takayama	576-76-4593	98-924 B 3rd Pl Aiea 96701
MARTIN L. ABRAM	[illegible]	575-79-1[illegible]	[illegible] Waimano Pl Aiea Hi 96701
Danny Sato	Danny Sato	575-02-[illegible]	92-901 [illegible] [illegible]
Kelli TAOKA	Kelli Taoka	576-88-0421	1703 [illegible] St Hono. HI 96819
[illegible]	[illegible]	576-78-9789	1777B [illegible] Cir Hono. HI 96819
Louis Nihoa	Louis Nihoa	576-73-[illegible]	95-[illegible] Loop Mililani 96789
[illegible] Kobayashi	[illegible] Kobayashi	576-74-7551	2056 [illegible] Lp P.C. 96782
Chris Sakai	Chris Sakai	[illegible]	[illegible]
Bernadette Parrs	Bernadette [illegible]	576-11-4763	2315-H [illegible] Dr Hon. HI 96819
CAROLyn TEIXERA	Carolyn R Teixera	576-[illegible]-3365	96-[illegible] St Waipahu Hi 96797
Dorothy McFadden	Dorothy M McFadden	576440165	96-057 [illegible] St. P.C. [illegible]
Penny C Bagorio	Penny Bagorio	576-926[illegible]	2319 [illegible] PC 96782
[illegible]	[illegible]	576-[illegible]-4724	98-[illegible]
Marla Takahama	Marla Takahama	[illegible]	1592 Young St # [illegible] Hon Hi 96826
Derek Suzuki	[illegible]	576-66-1496	1072 [illegible] Kona Hi.
Marisa [illegible]	[illegible]	576-80-[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]

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NAME	SIGNATURE	[illegible]	ADDRESS
George [illegible]	George [illegible]	576 88 [illegible]	18 [illegible] St.
[illegible]	[illegible]	[illegible]	[illegible] Ave
[illegible]	[illegible]	575-[illegible]-8026	[illegible] St.
[illegible]	Ken ARASHIRO	576-[illegible]	1677 REPUBLICAN
[illegible]	[illegible]	576 [illegible]	2243 [illegible]
GEORGE N. KAHA	[illegible]	575-28-[illegible]	89-669 [illegible] ST.
Stephen Gomes	Stephen C Gomes	576-44-[illegible]	229 N Kuakini St #204
[illegible]	[illegible]	[illegible]	91-706 [illegible] #13
Lisa Kozuki	Lisa Kozuki	576-76-4481	RC-580 B Waianae Vly Rd
Sam Catalina	Sam Catalina	575-79-17[illegible]	94-1326 [illegible] St.
Thomas [illegible]	Thomas [illegible]	[illegible]	1143 [illegible] Avenue
Jon Keong Ihara	[illegible]	576-19-[illegible]	1344 [illegible] St. [illegible]
[illegible]	[illegible]	[illegible]	[illegible]
GARRET ASAHARA	Garret Asahara	576-90-9327	1345-A MOANA ST [illegible]
Lisa OKuhara	Lisa Y. Okuhara	575 02 [illegible]	98-[illegible] St Aiea HI [illegible]
Roger Takatsuno	Roger TAKATSUNO	575 [illegible]	2844 [illegible] St PC HI
Richard [illegible]	Richard [illegible]	575-[illegible]-7786	2217 [illegible] DRIVE
Wayne Bautista	Wayne Bautista	575-96-[illegible]	[illegible] Drive PC [illegible]
[illegible]	CARL [illegible]	[illegible]	[illegible] DR
R [illegible]	RS [illegible]	[illegible]	[illegible]
Vicky Ventura	Vicky Ventura	576-[illegible]-1717	95-[illegible] Pl
HERMAN [illegible]	[illegible]	[illegible]	[illegible]
Lester Arita	[illegible]	834-5746	1353 [illegible] St
[illegible]	[illegible]	[illegible]	[illegible]

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NAME - Print	SIGNATURE	[illegible]	ADDRESS
[illegible]	[illegible]	576-40-9811	2004 [illegible] Pl.
[illegible]	[illegible]	575 [illegible]	85-043 [illegible] St.
Jewell H Curzon	Jewell [illegible] Curzon	576-90-4559	P.O. Box 167 Waianae
Pearl Avilla	Pearl Avilla	575-76-2317	[illegible] Rd 96[illegible]
Kamakahukilani	Kamakahukilani	734-3890	890 Olokele St.
Donnie P Avilla	Donnie P. Avilla	576-87-	
[illegible]	[illegible]	~~[illegible]~~	4420 [illegible] Dr
[illegible] Gomes	[illegible]	576-40-6812	87-1213 [illegible] Rd [illegible]
Valerie Nakama	Valerie Nakama		1796 Dillingham Blvd
Adrienne [illegible]	Adrienne [illegible]	576-[illegible]	303 [illegible] Rd. [illegible]
Debra A.L. Klatt	Debra A. L. Klatt	575-48-6815	3411 Pawaina St. 96822
[illegible]	[illegible]	576-36-1994	87-149A [illegible] 96792
Kamaile [illegible]	Kamaile [illegible]	576-42-4030	94-420 [illegible] St. 96797
Janet [illegible]	Janet [illegible]	576-86-4111	[illegible]
Vincent [illegible]	[illegible]	575-06-1866	121 [illegible]
[illegible]	[illegible]	576-90-[illegible]	41-570 [illegible] St.
Curtis A. [illegible]	Curtis A. [illegible]	576-6[illegible]	94-1041 [illegible]
D. [illegible]	[illegible]	575-02-[illegible]	85-450 [illegible] Valley Rd
PATRICIA R. BROWN	Patricia R. Brown	575-76-4594	[illegible]-A OR. HAUKA PLACE 96[illegible]
Martin Rego Jr	Martin Rego Jr.	576167[illegible]	94-128 [illegible] ST 96797
Merrie [illegible]	[illegible]	575-[illegible]-4751	89-[illegible] St 96792
Lawrence C [illegible]	Lawrence C [illegible]	486 98 5935	1973-B [illegible] Cir 96818
[illegible]	[illegible]	671-1456	94-185 [illegible] St
[illegible]	[illegible]	576-[illegible]	87-[illegible] St

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NAME	SIGNATURE	[illegible]	ADDRESS
David L.K. [illegible]	[illegible]	575-[illegible]	[illegible]
Jerry [illegible]	Jerry [illegible]	575-76-[illegible]	94-511 Waipahu St. 96797
[illegible] H K Morioka	[illegible] H K Morioka	576-02-5801	99-614 [illegible] St Aiea
Sharlyn Kim	Sharlyn Kim	575-69-4226	98-340 [illegible] Pl Aiea [illegible]
R. [illegible]	[illegible]	[illegible]	53-341 [illegible]
[illegible]	→ John [illegible]	454-2[illegible]	PO Box 1192 [illegible]
A [illegible]	Helen FECCA KO	354-10-29[illegible]	165 7 [illegible]
JESSE [illegible]	Jesse [illegible]	576-98-7545	94-[illegible] St. [illegible]
[illegible]	[illegible]	575 [illegible]	99-210 [illegible] R.
ERIC Suzuki	Eric Suzuki	575 93 5112	91-1126 [illegible] Pl
Frank [illegible]	[illegible]	159-34-8064	1797 [illegible]
Lora Gabriel	Lora Gabriel	556-53-8326	1820 Dole St [illegible] Honolulu [illegible]
Antoinette Sellona	Antoinette Sellona	575-8[illegible]	87-356 [illegible] St. [illegible]
[illegible]	[illegible]	576-58-5794	91-847 [illegible] Pl. [illegible]
W. R. GROSH	W R Grosh	169-82-5164	1315 [illegible] St
Seth [illegible]	Seth [illegible]	575-08-9960	927 [illegible] Place
Darryl [illegible]	Darryl [illegible]	575-04-2423	219 Nicholas St.
Lynn Maruoka	Lynn Maruoka	575-84-1590	94-455 [illegible]

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NAME	SIGNATURE	SOCIAL SECURITY NO.	ADDRESS
Ruby A. Wong	Ruby A. Wong	576-38-9695	47-679 Waiohia ST
Juliana N. Ferry	Juliana N. Ferry	575-10-9695	99-1723 Hoapono Pl Aiea Heights 96701
Stefiana M Wong	Stefiana M Wong	576-94-9887	99-1723 Hoapono Pl. Aiea
[illegible]	[illegible]	575-08-3021	99-1723 Hoapono Pl. Aiea
Stanley P Wong	Stanley P Wong	576-20-5559	47-679 Waiohia St. Kan
Alexandra Enos	Alexandra Enos	576-30-6968	250 Cathy Ave Wahiawa 96786
Jeffrey Pope	Jeffrey Pope	575-66-9999	87-141-A Lepeka St 96792
[illegible] Fukuda	[illegible] Fukuda	[illegible]	98-1218 D [illegible]
Albert Dolores	Albert Dolores	576-62-1390	454 NAMAHANA ST
Rockwell Oda	[illegible]	575-50-9943	94-963 Lumiloke St
VINCE DURAN	Vincent Duran	575-68-0088	66-769 Haleiwa Rd.
Greg Lee-Guerrero	[illegible]	949-1524	1412 [illegible] St. Hon

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NAME	SIGNATURE	SOCIAL SECURITY NO.	ADDRESS
Olivia Jones	Olivia J. Jones	595-92-6520	98-1690 Kaahumanu St. PC
Ray Tamura	Ray Tamura	575-86-00[illegible]	186 Kaualoka St.
[illegible]	Thomas Castro	576-72-4469	87-127 Hila St
Jeff Cole	Jeffrey A Cole	517-72-139[illegible]	95-051 Kuahelani St. Mililani
DANIEL CALDWELL	D. Caldwell	264-84-9628	59-241 Ke Nui Rd Haleiwa
John [illegible]	John [illegible]	134-60-7640	91-535 [illegible] St, [illegible]
Edwina Elecia	Edwina Elecia	576-90-4497	94-465 Apowale St, Waipahu HI
Stanley Shin	Stanley Shin	575-44-2257	3369 Keanu [illegible]
[illegible]	[illegible]	93-61-9771	98-114 [illegible]
Ryan Umehara	Ryan K. Umehara	575-84-[illegible]	1696 [illegible] St.
Jeffrey [illegible]	[illegible]	576-74-7155	203 [illegible] St
Lawrence Rayson	[illegible]	576-29-5720	1858 Waimano Hm RD

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NAME	SIGNATURE	SOCIAL SECURITY NO.	ADDRESS
Dennis Coleman	David Coleman	575-06-8716	541 Kiana Pl
Gregg Gasper	[illegible]	576-72-8156	94-229 Kahuamo Pl
Jill Takayama	Jill Takayama	575-90-9334	679 Olive Ave
Charles Coelho	Charles Coelho	576-92-9201	216 Hoomalu St.
Janet Yuen	[illegible]	575-19-7729	[illegible] Kapiolani Blvd #[illegible]
Angela G.	Angela G.	576-11-0147	[illegible]
[illegible]	[illegible]	[illegible]613-3456	27 [illegible] Ln. #701
Eric W.C. Wong	Eric W. C. Wong	576-01-4446	1105 Pua Lane [illegible] 96817
[illegible]	Roland C. [illegible]	575-62-4[illegible]	91-720 [illegible] Rd.
[illegible]	[illegible]	575-11-0866	91-845 [illegible] Pl
Barbara Agonia	Barbara Agonia	575-96-7498	94-1442 Lanikuhana Ave
Sandra Hathaway	Sandra Hathaway	576-82-3318	P.O. Box 1495
Randy Kalahiki	Randy Kalahiki		45-622 [illegible] St. 96744

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NAME	SIGNATURE	SOCIAL SECURITY NO.	ADDRESS
Robyn Yuen	Robyn S.H. Yuen	576-98-2151	1303 Noelani Pl. Pearl City, Hi. 96782
MICHAEL PARRILLO	Michael W Parrillo	575-66-5403	511 2nd ST KUNIA HI. 96759
Charles Spillner	Charles Spillner	576-74-3034	2077 Aaniu Lp P.C. Hi 96782
Eric Yamanaka	Eric Yamanaka	576 407502	2005 AANIU Lp P.C. Hi 96782
[illegible]	[illegible]	[illegible]-52-3712	[illegible] Waipahu
Anna Kenney	[illegible]	575-36-6137	91-567 [illegible] Pl Ewa Beach
Nina Kenney	Nina Kenney	575 [illegible]-4903	" " "

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NAME	SIGNATURE	SOCIAL SECURITY NO.	ADDRESS
[illegible]	[illegible]	575-88-[illegible]	99-[illegible] [illegible] St. [illegible]
[illegible]	[illegible]	575-12-[illegible]	99-[illegible] [illegible] St.
[illegible]	[illegible]	575-70-1593	1617 [illegible] St. Wahiawa
Jane Kop	Jane Kop	575-70-[illegible]	[illegible] St.
[illegible]	[illegible]	[illegible]	84-191 [illegible] Pl

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NAME	SIGNATURE	SOCIAL SECURITY NO.	ADDRESS
[illegible]		576-62-[illegible]	[illegible]
[illegible]		[illegible]	94-132 [illegible] St Apt. A [illegible]
[illegible]		575-78-4220	[illegible] [illegible] Dr Hon HI [illegible]
[illegible]		576-46-[illegible]	1122 Hoolauka St HI [illegible]
[illegible]		576-62-[illegible]	84-560 [illegible] St 967[illegible]

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NAME	SIGNATURE	SOCIAL SECURITY NO.	ADDRESS
Maryline Manuel	Maryline Manuel	575-88-7609	91-1755 [illegible] St Ewa HI [illegible]
[illegible] C. Price	[illegible] C. Price	575-10-[illegible]	[illegible] Ave Wahiawa [illegible]
[illegible]	[illegible]	575-10-1918	1358 [illegible] St., Pearl City
CHESLEY CALMA	Chesley Calma	576-1[illegible]	2311 [illegible]
[illegible], TY	[illegible]	"	930 [illegible] St. Hon. HI 96822
[illegible]	[illegible]	575-13-[illegible]	[illegible] Hon. [illegible]
[illegible]	[illegible]	575-56-[illegible]	84-860 [illegible] St

---

266 Auwaiolimu St.
Honolulu, Hawaii
November 19, 1982

Native Hawaiian Study Commission
Department of Interior Bldg.
18th & C Streets, NW, Room 6220
Washington, D.C., 20240

Re: Native Hawaiian Study Commission Report.

The NHSC Report seems to be religiously following the "Kamehameha Dynasty & Lunalilo Relationship; Kalakaua Dynasty;....." from the Archives dated 1968 of which copies are herewith enclosed.

There are so many errors or omissions that it violates any sense of fairness. Where, pray tell, is the attribution? Why doesn't the author identify himself or herself? The arrogance of this material would insult the intelligence of any genealogist.

The first error is the wrong parentage assigned to David Kamehameha. His father was Kahalaia and not Kekuanaoa (vide Ruling Chiefs of Hawaii by S.M.Kamakau).

As for the highly controversial Kamehameha lineage of Ruth Keelikolani, it has long been debunked by John F. Stokes (vide Paternity of Kaoleioku by Stokes).

As to the 17 wives of Kamehameha 1, my understanding is that only the official wives, Keopuolani, Kaahumanu and her 2 sisters, Kalakua Kaheiheimalie and Piia Namahana, were grouped in the Royal Family.

The Kalakauas have always tried to bury Queen Emma's lineage from Prince Kealiimaikai which is omitted here and very biased.

The Prince Kalokuokamaile being the Senior branch of the Keoua family is omitted also and it has never been controversial.

The author gives the false picture of an extinct Dynasty. Collateral lines have always been represented in the collections in the Archives. There are two.

As to the Kalakaua Dynasty, there are the siblings of Princess Victoria Kaiulani on the Cleghorn side. Why are the Cleghorns ignored? Though, understandably for the many descendants of Kaumualii there isn't room for those through George Kaumualii. I guess there wasn't room for Kalakaua's other cousins either.

What is very irritable is that the author is unidentified and doesn't think attribution is necessary. He or she just arbitrarily selects and omits, no matter how controversial. Are some genealogies supposed to be better than others just on the authors say so?

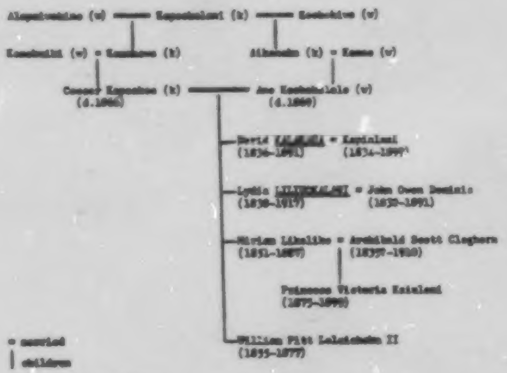
All in all, it gives a false picture of the Kamehameha Dynasty as extinct and skips the Cleghorns. Are we then to assume what it omits as disproved and what it selects as proved? How arrogant and discriminatory!

Of all the materials available today, can't the Commission find a better source? I'm certain that if Hawaii State officials find out about this they would have the fairness and class to throw it out.

Aloha Pumehana (Warm Regards),

Mrs. Victoria Meus
(Mrs.) Victoria Meus

KALAKAUA DYNASTY


Alapaiwahine (w) — Kepookalani (k) — Keohohiwa (w)
Kamokuiki (w) = Kamanawa (k)
Aikanaka (k) = Kamae (w)
Caesar Kapaakea (k) (d.1866) — Ane Keohokalole (w) (d.1869)
David KALAKAUA = Kapiolani (1836-1891) (1834-1899)
Lydia LILIUOKALANI = John Owen Dominis (1838-1917) (1832-1891)
Miriam Likelike = Archibald Scott Cleghorn (1851-1887) (1835?-1910)
Princess Victoria Kaiulani (1875-1899)
William Pitt Leleiohoku II (1855-1877)

= married
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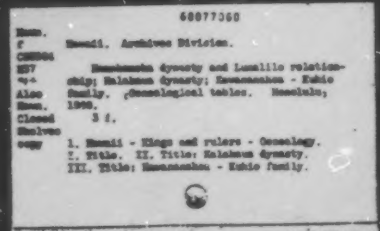
Ruling monarchs underlined

Archives of Hawaii
1966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Hawaii. Archives Division.

Kamehameha dynasty and Lunalilo relationship; Kalakaua dynasty; Kawananakoa - Kuhio family. [Genealogical tables. Honolulu, 1966.

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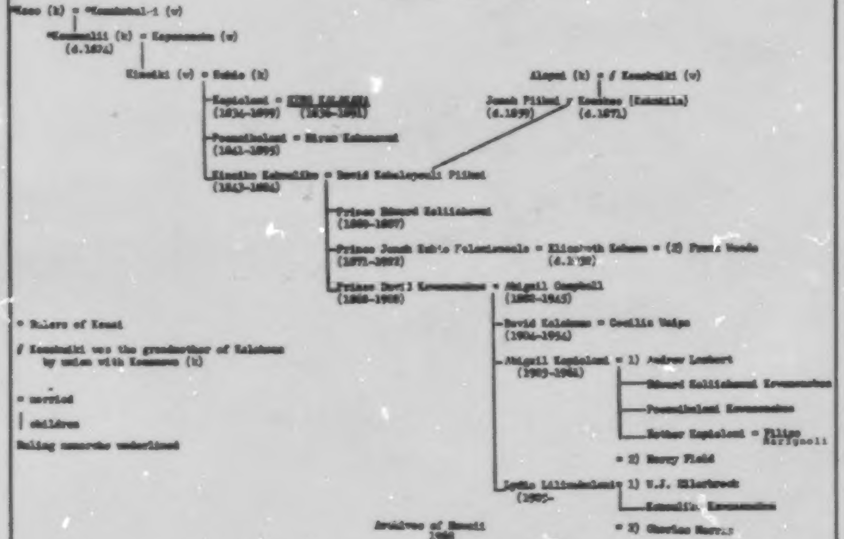
1. Hawaii - Kings and rulers - Genealogy. I. Title. II. Title: Kalakaua dynasty. III. Title: Kawananakoa - Kuhio family.

KAWANANAKOA - KUHIO FAMILY


*Kaeo (k) = *Kamakahelei (w)
*Kaumualii (k) (d.1824) = Kapuaamohu (w)
Kinoiki (w) = Kuhio (k)
Kapiolani = KING KALAKAUA (1834-1899) (1836-1891)
Poomaikelani = Hiram Kahanawai (1841-1895)
Kinoiki Kekaulike = David Kahalepouli Piikoi (1843-1884)
Alapai (k) = / Kamokuiki (w)
Jonah Piikoi = Kamakee [Kekukila] (d.1859) (d.1871)
Prince Edward Keliiahonui (1869-1887)
Prince Jonah Kuhio Kalanianaole = Elizabeth Kahanu = (2) Frank Woods (1871-1922) (d.1932)
Prince David Kawananakoa = Abigail Campbell (1868-1908) (1882-1945)
David Kalakaua = Cecilia Waipa (1904-1953)
Abigail Kapiolani = 1) Andrew Lambert (1903-1961)
Edward Keliiahonui Kawananakoa
Poomaikelani Kawananakoa
Esther Kapiolani = Filipo Marignoli
= 2) Harry Field
Lydia Liliuokalani = 1) W.J. Ellerbrock (1905-
Kekaulike Kawananakoa
= 2) Charles Morris

* Rulers of Kauai
/ Kamokuiki was the grandmother of Kalakaua by union with Kamanawa (k)

= married
| children
Ruling monarchs underlined

Archives of Hawaii
1966

KAMEHAMEHA DYNASTY and LUNALILO RELATIONSHIP

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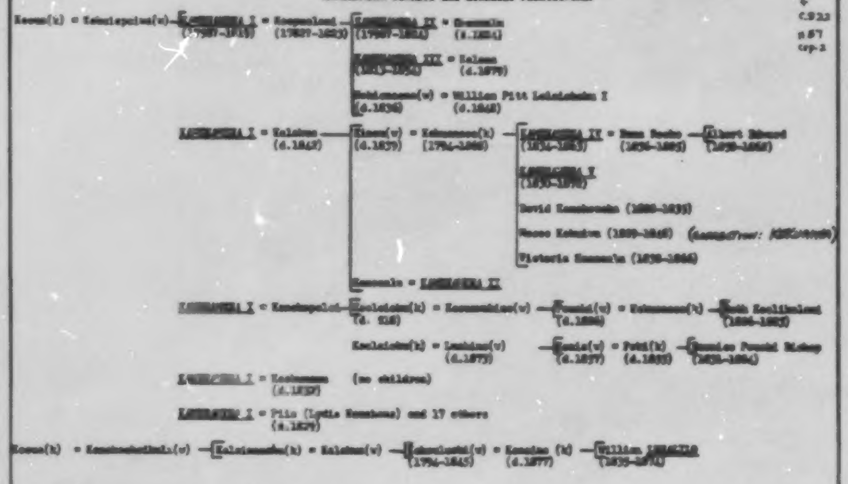

Keoua(k) = Kekuiapoiwa(w) — KAMEHAMEHA I (1758?-1819) = Keopuolani (1778?-1823) — KAMEHAMEHA II (1797?-1824) = Kamamalu (d.1824)
KAMEHAMEHA III (1813-1854) = Kalama (d.1870)
Nahienaena(w) = William Pitt Leleiohoku I (d.1836) (d.1848)
KAMEHAMEHA I = Kalakua (d.1842) — Kinau(w) = Kekuanaoa(k) (d.1839) (1794-1868) — KAMEHAMEHA IV = Emma Rooke — Albert Edward (1834-1863) (1836-1885) (1858-1862)
KAMEHAMEHA V (1830-1872)
David Kamehameha (1828-1835)
Moses Kekuaiwa (1829-1848) (adopted from: Kaikioewa)
Victoria Kamamalu (1838-1866)
Kamamalu = KAMEHAMEHA II
KAMEHAMEHA I = Kanekapolei — Kaoleioku(k) (d. 1818) = Keouawahine(w) — Pauahi(w) (d.1826) = Kekuanaoa(k) — Ruth Keelikolani (1826-1883)
Kaoleioku(k) = Luahine(w) (d.1877) — Konia(w) = Paki(k) (d.1857) (d.1855) — Bernice Pauahi Bishop (1831-1884)
KAMEHAMEHA I = Kaahumanu (d.1832) (no children)
KAMEHAMEHA I = Piia (Lydia Namahana) and 17 others (d.1829)
Keoua(k) = Kamakaeheikuli(w) — Kalaimamahu(k) = Kalakua(w) — Kekauluohi(w) = Kanaina (k) — William LUNALILO (1794-1845) (d.1877) (1835-1874)

= married
[children
Ruling monarchs underlined

Archives of Hawaii
1966

nea
NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D.C. 20036 • (202) 833-4000
WILLARD H. McGUIRE, President
BERNIE FREITAG, Vice President
MARY HATWOOD FUTRELL, Secretary-Treasurer
TERRY HERNDON, Executive Director

EXECUTIVE OFFICE

January 17, 1983

The Native Hawaiians Study Commission
Department of the Interior
Eighteenth and C Streets, N. W., Room 6220
Washington, D. C. 20240

Dear Commission Members:

The National Education Association, in cooperation with the Hawaii State Teachers Association, offers these comments on the Native Hawaiians Study Commission's draft report.

NEA and HSTA agree with the concerns raised by Senator Daniel K. Inouye, the Office of Hawaiian Affairs, and the Hawaiian activist organization, Alu Like.

We strongly believe that the final report should give an objective "full review of the history of the United States' relations with Hawaii." It should also reflect an unbiased "analysis of the causes of the fall of the monarchy and annexation" of the Hawaiian Islands.

The draft report does not meet these objectives. The NEA believes that the report should not be adopted in its present form, because the results would be detrimental to the cause and rights of native Hawaiians. We urge that you consider these factors as you work to finish the report and make recommendations to Congress. We further urge that unless these factors are considered that the report be filed as a fatally flawed document.

We respectfully request that this letter be made a part of the Commission's public record.

Sincerely,

Willard H. McGuire

Willard H. McGuire
President

WHM/WL:cv

cc: Senator Daniel K. Inouye
John Radcliffe
Winona Rubin
Haroldeen Wakida

11/22/82

NOV 26 [illegible]

Sir,

I'm amazed at the treatment of King Kalakaua in the first draft of the Study Commission's report. Why does the history writer play down and understate, almost to the point of euphemism, the evils of Kalakaua's regime? Why the timid reference to money received for opium licenses? The AKI scandal is emblazoned on the records of the legislature, the Cabinet & Supreme Court.

Justice Preston officially recognized a $71,000.00 transaction & ordered that the claim of the heirs of AKI be

paid (Hawaiian Reports vol 7 p 401).

The lesser scandals are discussed by Prof. W. D. Alexander in the Blount Report.

According to testimony in the Blount Report, Kalakaua's election was generally believed to have been a sham. W. D. Alexander says Kalakaua owed his life and Crown to foreign intervention. And he was found hiding under a house after the rebellion of Queen Emma's supporters was put down (Sanford Ballard Dole and His Hawaii by Ethel Damon p 127).

However, if I didn't know Hawaiian history, I'd gather from the first draft that he was just a leader of Native Hawaiians in conflict with

non Natives and Western values.

Why doesn't the draft call a spade a spade? Kalakaua was an advocate of autocracy. And he left us a legacy of race hatred.

I'm also amazed that the first draft uses Kathleen Mellen as a source (cf. her telling of the AKI story). Where are her footnotes? Mellen is so biased and overwhelmingly pro Kalakaua that her prejudiced point of view makes her writing interesting. She is also extremely biased in her ideas about the strata of Hawaiian society, which are at variance with those of writers like e.g. John Rodman (Kahuna Sorcerers).

and as to the succession of royalty in Politics, I feel the idea is ridiculous. Robert W. Wilcox, my grandfather, defeated "Prince" Kawananakoa in the first election of Hawaii delegate to Congress. Then Wilcox was defeated by "Prince" Kuhio. When Kuhio "bolted" from my grandfather's Home Rule Party, the Hawaiians were divided and ultimately swept out of power.

For many of us Hawaiians, our true history is a highly valued heritage. We don't want romantic version of history or to make a folk heroes out of Kalakaua. We only want to keep our history intact in Hawaii, which is a very small and political place.

I was stunned with disbelief that the documented Historical facts on Succession, hand-carried to the Commission 5/17/82 have been ignored. It is as if they were never received or read. My family's moral and legal claim stands on its own merits IF a wrong is established.

But I feel the valuable time of the Commission, mandated by Congress and appointed by our President shouldn't be wasted in understating the miserable reign of Kalakaua.

Kalakaua is an embarrassment to us Hawaiians. I've been on my own since the age of 18. I worked my way through

college for an M.A. and Fifth year Diploma and became a Special Education Teacher. I didn't get any inspiration from the likes of Kalakaua.

The enclosed article (Hawaiian annual 1931 p67) says it all. Which Royal Family does the Commission plan to honor?

Respectfully,

Elmer Miller
P.O Box 23398
Hon. HI 96822

THE
HAWAIIAN ANNUAL
FOR
1931

THE REFERENCE BOOK OF INFORMATION
AND STATISTICS
Relating to the Territory of Hawaii, of Value to
Merchants, Tourists and Others

THOS. G. THRUM
Compiler and Publisher

Fifty-Seventh Year of Publication

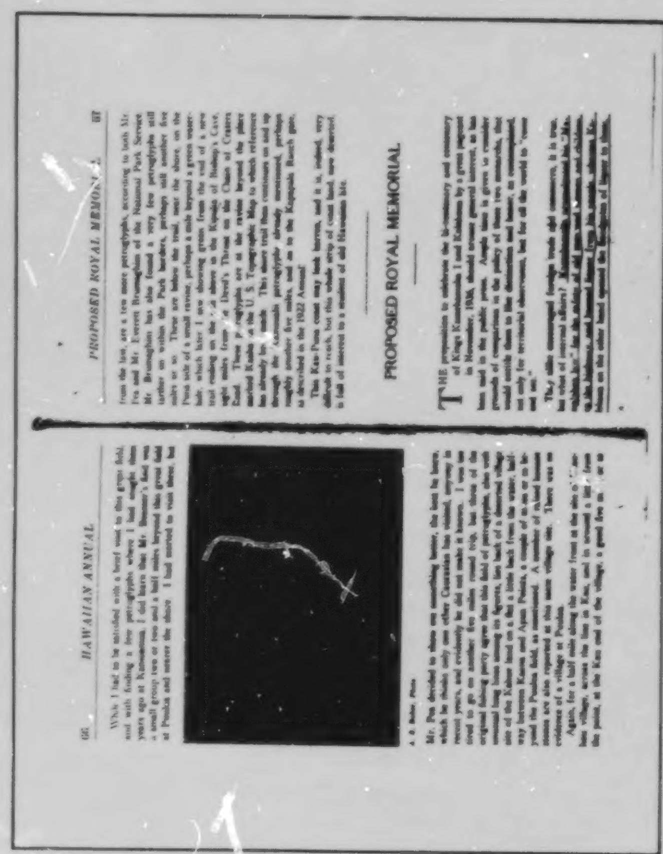
Copyright 1930 by Thos. G. Thrum

HONOLULU
December, 1930

KNOW HAWAII

The vade mecum of this land we live in is the Hawaiian Annual. Beginning in 1875, its issues have presented a fund of facts and figures of research and progress that early won it recognition as the reliable reference book of information pertaining to Hawaii, statistical and otherwise, being specially designed to meet intelligent inquiry.

Its historic value causes steady demand for back issues, as also for as full sets as may be obtainable, or from certain years, orders for which should be sent to the publisher, Thos. G. Thrum, Box 205, Honolulu, T. H. Current issues may be had at all local bookstores at $1.00, plus postage on mail orders.


HAWAIIAN ANNUAL

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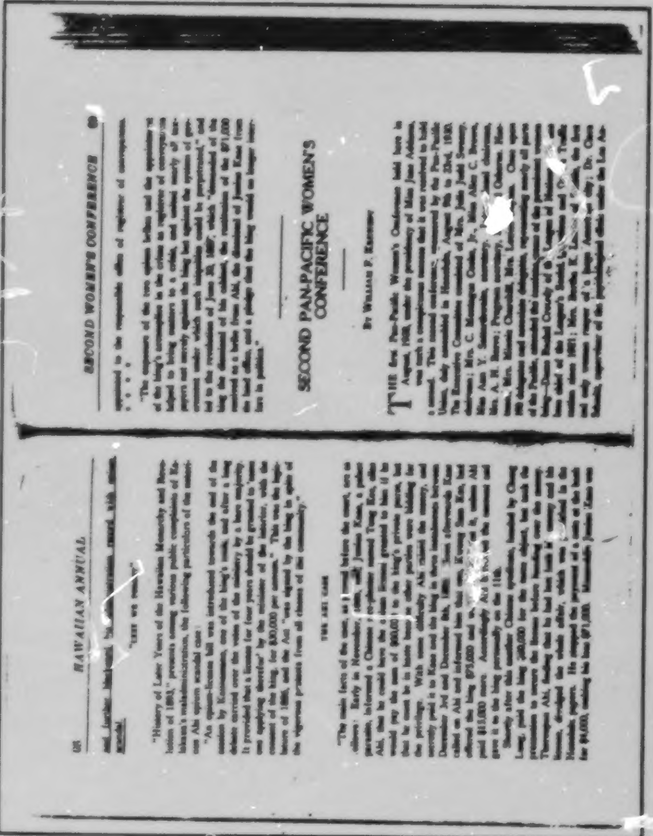
PROPOSED ROYAL MEMORIAL


HAWAIIAN ANNUAL

SECOND WOMEN'S CONFERENCE

SECOND PAN-PACIFIC WOMEN'S CONFERENCE

NOV 2 : 1982

November 23, 1982

TO: THE NATIVE HAWAIIANS STUDY COMMISSION

FROM: MARION K. MORRISON
700 Richards St. #804
Honolulu, HI 96813

Marion K. Morrison

SUBJECT: RESPONSE TO THE DRAFT REPORT DATED September 23, 1982

As a native Hawaiian of 50% aboriginal blood, I protest the questionable tactics surrounding the handling and substance of the Draft report which has been submitted to the Hawaiian populace.

My objections are:

1. Copies of this report were not readily available in sufficient quantities to the greater Hawaiian population. When copies were finally made available--without further help from the commission--the sixty day time limit for responding to the Draft had already passed the half-way mark. It left the Hawaiian populace in the situation of having to scramble for copies with little time to prepare their reports.

There were others in business and counselling who were also unable to secure copies of the report.

2. The sixty day period allowed to review the report was much too short. At 366 pages, it is not something one takes home to read overnight or over the weekend and be able to respond to readily.

It is a disservice to the people the commission was established to help, to so severly limit both the number of copies and the response time which was set.

3. The Executive Summary is so poorly written that I have trouble conceiving this to have come from the appointed commissioners. It is enough to have to plod through imperfect punctuation and prose; but when one finds that the entire report is laced with errors in documentation and interpretation, it is hardly the kind of thing one wants to become a part of. It is a wonder that this ludicrous report has been presented as public record.

In fact, this thing is an abomination. I know full well that the people on the commission are literate and capable of succinct oral and written expression. One wonders who among them or in higher echelons permitted this rag to be foisted upon us. Obviously the esteem shown for the Hawaiians is non-existent. The report is simply incredible in its outright falsehoods and manipulation of truth.

4. Why was the Culture portion not included? Interviews and meetings were conducted specifically to this subject in March of 1982. Its lack is another expression of disdain for the Hawaiians.

Since the Hawaiians are obliged to accept this report I feel that I am obliged to remind those who are treating my heritage lightly, that it will have a strong impact on my grandchildren and it is my duty to them to digest and respond to whatever report this commission comes up with. Yes, it is only a Draft, but when the draft is so mediocre, what can we expect from the final report? And who knows what kind of low-witted politician will come along and use this for his or her own gain to the detriment of the Hawaiian people?

It is my intention to read this report in depth and to report more fully on my findings at a later time. That is to say, that under pressure of the established deadline, I reserve the right to submit another report at a later date.

At this point, I find errors in the Hawaiian Glossary. Language being at the core of a culture, it should be expressed in a manner of precise understanding. I do not like the comparisons and analogies with Native American Indians, Eskimos, Alaska, or Texas. The statistics are manipulated so that they are confusing, the history is an embellishment put together by a bureaucracy which is in complete conflict of interest here.

We are our own people, our culture and geographic location is far from continental. Why are we being judged by western values? When our queen's throne was overpowered and stolen with the help of a foreign country, The United States of America, it was accomplished by means of western greed; and in quick succession the Hawaiian people lost their culture, heritage, tradition and birthright.

I wonder at what kind of "justice" the Hawaiians will find at the hands of a government biased by its own lack of wisdom, one which had no right by one tittle or iota to be in any way a decision-making body on the future of a government and people they did not understand.

And here we are today in a situation which the United Nations would decry, only this happened before its time. And hoping for the least sense of equality, we are treated with duplicity--again..

Certainly those who are able to make decisions can do better than this for the Hawaiian people.

DEC 14

THE CONCLUSIONS PRESENTED IN YOUR REPORT I DO NOT AGREE WITH. I DON'T AGREE THAT HAWAIIAN NATIVES HAVE NO ABORIGINAL TITLE OR THAT THERE IS NO PROOF OF ABORIGINAL TITLE OR THAT LAND WAS not TAKEN BY THE U.S. GOVERNMENT.

"HAWAIIAN AND FIJIAN NATIVE GROUPS HAVE MUCH IN COMMON, EACH, IN PRE CONTACT TIMES SUPPORTED INDIGENOUS PEOPLE WITH SIMILAR AGRICULTURE, IN EACH WAR WAS AN IMPORTANT PART OF LIFE, EACH WAS SETTLED BY CAUCASIAN OUTSIDERS AT ABOUT THE SAME TIME, IN EACH A POWERFUL CHIEFLY ELITE EXERTED SUBSTANTIAL BUT VARYING CONTROL OVER THE ALLOCATION OF THE LANDS, AND IN EACH THERE WAS A DEEP SPIRITUALY RESIDING IN THE LAND . ...AND THE LAND AND ITS PRODUCTION REQUIRED CEREMONIAL COMMUNICATION THROUGH CHIEF OR PREIST."(1) "AS IN HAWAII IT WAS DIFFICULT TO ASCERTAIN JUST WHAT CURRENT LAND PRACTICES WERE AND IF LAND WERE TO BE ALIENATED, WHO WAS THE PERSON OR PERSONS IN WHOM AUTHORITY WAS VESTED AND WHO COULD BE PARTY TO A LEGAL CONTRACT". AS ALIENATION AND THE CONCEPT OF LAND AS A COMMODITY WAS UNKNOWN, NO ONE IN REALITY HAD THE EXPERIENCE UNDER NATIVE CUSTOM TO TRANSACT THE SORT OF BUSINESS THE EUROPEAN (OR AMERICAN)WANTED." "THE CHIEF COULD GRANT THE USE OF [illegible] LAND NOT ONLY TO HIS OWN FOLLOWERS BUT TO OUTSIDERS AS WELL WHO HENCE FORTH WOULD PROVIDE HIM WITH GIFTS AND SERVICES WHILE THE LAND WAS IN USE."(1)

"IN GENERAL MANY NATIVES FELT THAT 'SALE' OF LAND MEANT 'TO USE FOR A CONSIDERATION'; AND THERE WAS LITTLE UNDERSTANDING THAT SALE WAS ALSO A MESSAGE TO 'VACATE'. THIS HAD NEVER BEFORE MEANT EVICTION AND CANCELLATION FOREVER OF TRADITIONAL RIGHTS."(1)

(1) Fijian Land: A basis for inter-cultural variance

by Bryn H. Farrell
University of California Santa Cruz

IN 1840 THE NATIVE GOVERNMENT ADOPTED ITS FIRST CONSTITUTION, IT ATTEMPTED TO EXPLAIN NATIVE CUSTOM IN REGARD TO LAND ALLOCATION IN MODERN ENGLISH TERMS: "KAMEHAMEHA I WAS THE FOUNDER OF THE KINGDOM, AND TO HIM BELONGED ALL THE LAND FROM ONE END OF THE ISLANDS TO THE OTHER, THOUGH NOT HIS OWN PRIVATE PROPERTY, IT BELONGED TO TO THE CHEIFS AND THE PEOPLE IN COMMON OF WHOM KAMEHAMEHA I WAS THE HEAD AND HAD THE MANAGEMENT OF THE LANDED PROPERTY". (2) THIS ABOVE CLEARLY ESTABLISHES "ABORIGNAL TITLE".

THE GREAT MAHELE OF 1848 DIVIDED THE LANDS OF THE KINGDOM INTO PARTS FOR USE ONLY BY THE CHEIF AND FAMILY, THE GOVERNMENT, AND THE PEOPLE INCLUDING FOREIGNERS ACCORDING TO NATIVE CUSTOM AS STATED IN (2). THIS DID NOT EXTINGUISH "ABORIGINAL TITLE". THE CONSTITUTION WAS STILL IN EFFECT, it was not AMENDED TO ELIMINATE PROVISIONS IN THE PREAMBLE.

THE NATIVES WERE KILLED TO MINORITY STATUS BY INTRODUCED DISEASES. ONE RECORDED INCIDENT WAS IN 1881 WHEN AMERICAN SUGAR PLANTERS AND MERCHANTS, WHO WENT WITH KALAKAUA ON HIS WORLD TOUR, SENT TO HAWAII CHINESE LABORERS THEY KNEW TO BE INFECTED WITH SMALL POX. THE FOREIGNS MAJORITY, MOSTLY AMERICAN SUGAR PLANTERS, MERCHANTS AND THEIR IMPORTED LABORERS PRESSURED THE REPRESENTITIVES WHO PASSED THE LAND COMMISSION ACT OF 1845. THE COMMISSION DECIDED LAND CLAIMS WITH TOTAL DISREGARD TO THE CONSTITUTION. THE NATIVE MINORITY WAS IGNORED WHEN THEY TRIED TO APPLY POLITICAL PRESSURE TO PROTECT AND EXERCISE THEIR CUSTOMARY NATIVE RIGHTS AS PROVIDED IN THE CONSTITUTION IN REGARD TO LAND ALLOCATION.

FAILURE BY NATIVES TO MAKE CLAIMS TO THE LANDS COMMISSION FOR REASONS INCLUDING, DEATH BY DISEASES, IT WAS THOUGHT NOT NESSASARY ACCORDING TO NATIVE CUSTOM, IGNORANCE OF THE ACT, NO MONEY TO SURVEY AND MARK BOUNDRIES ALLOWED THE AMERICAN PLANTERS, MISSIONARIES, MERCHANTS, AND OTHERS TO MAKE CLAIMS WHICH THE COMMISSION UPHELD.

THE PLANTERS, MERCHANTS MISSIONARIES ET AL CLAIMED TO THE COMMISSION THAT THEIR "USE FOR CONSIDERATION" OF GIFTS AND SERVICES TO THE CHIEF AMOUNTED TO SALE AND LOSS OF TITLE TO LANDS WHICH THE COMMISSION UPHELD.

ONCE THE AMERICANS HAD CONTROL OF THE LANDS OF THE ISLANDS THEY SOUGHT TO ELIMINATE THE NATIVE GOVERNMENT; THEY KNEW THAT IF THE ISLANDS WERE PART OF THE U.S.A. THEIR LAND CLAIMS WOULD BE further LEGITIMIZED AND PROTECTED. THE U.S. WAS HAPPY TO ABLIGE. ACCORDING TO US SEN. MORGAN OF ALABAMA THE RECIPROCITY TREATY OF 1875 WITH RESTRICTIONS ON LEASING PORTS, HARBORS OR GRANTING SPECIAL PRIVILEGES "WAS NEGOTIATED FOR THE PURPOSE OF SECURING POLITICAL CONTROL OF THE ISLANDS, MAKING THEM INDUSTRIALLY AND COMMERCIALY PART OF THE U.S." (3)

A YEAR LATER IN 1876 "MAJOR GENERAL JOHN M. SCHOFIELD OF THE U.S. ARMY'S MILITARY DIVISION OF THE PACIFIC AND BREVET BRIGADIER GENERAL BURTON S. ALEXANDER PAID AN ATTENTIVE VISIT TO HAWAII. THEY REPORTEDLY WERE ON A VACATION TRIP, BUT IT WAS REVEALED LATER THAT THEY HAD BEEN ORDERED BY THE SECRETARY OF WAR FOR THE U.S. S.S. BELKNAP TO TOUR THE ISLANDS CONFIDENTIALY "FOR THE PURPOSE OF ASCERTAINING THE DEFENSIVE CAPABILITIES OF THE DIFFERENT PORTS AND THEIR COMMERCIAL FACILITIES AND TO EXAMINE INTO ANY OTHER SUBJECTS THAT MAY OCCUR TO YOU AS DESIRABLE, IN ORDER TO COLLECT ALL INFORMATION THAT WOULD BE OF SERVICE TO THE COUNTRY IN THE EVENT OF WAR WITH A POWERFUL MARITIME NATION. IT IS BELIEVED THE OBJECTS OF THIS VISIT TO THE ISLANDS WILL BEST BE ACCOMPLISHED IF YOUR VISIT IS REGARDED AS A PLEASURE EXCURSION WHICH MAY BE JOINED BY YOUR CITIZEN FRIENDS."(4) THE U.S. MINISTER TO HAWAII JOHN STEVENS OPENLY SUPPORTED THE HAWAII LEAGUE AND ITS LEADERSHIP THE "COMMITEE OF THIRTEEN" WHOS STATED GOAL WAS TO DETHRONE KALAKAUA; AND THAT THEY HAD THE ARMED MIGHT TO DO IT. THEY MADE GOOD OF THEIR THREATS BY FORCING KALAKAUA TO SIGN THE "BAYONET CONSTITUTION" STRIPPING HIM OF HIS POWER. IT WAS

(3) The Hawaiian News
Oct '82 vol 2 no 9
"Setting the stage for the

(4) Insight Guides
APA Productions Ltd.
HongKong pp62

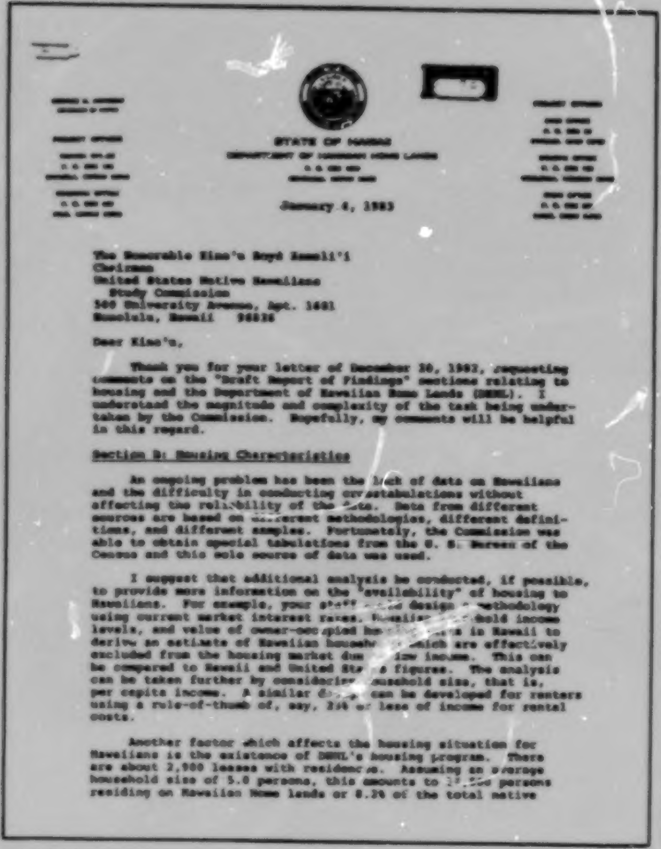
NOT UNTIL LATER ; WHEN LILIUOKALANI TRIED TO TAKE BACK THE LOST POWER; did SANFORD DOLE AND HIS COMMITTEE OF THIRTEEN TAKE OVER THE GOVERNMENT BUILDINGS AND DECLARED THE NATIVE GOVERNMENT DISOLVED. AFTER WHICH U.S. MINISTER STEVEN'S ORDERED U.S. MARINES FROM THE USS BOSTON LANDED AT HONOLULU TO "PROTECT AMERICAN LIVES AND PROPERTY" (AMERICANS WHO SUPPORTED AND PARTICIPATED IN THE OVERTHROW) AND OFFICIALY RECOGNIZED THE NEWLY FORMED PROVISIONAL GOVERNMENT AS THE U.S. RECOGNIZED GOVERNMENT OF THE ISLANDS.

WHEN THE U.S. ANNEXED THE ISLANDS OVER THE OBJECTIONS OF THE NATIVES AND THEIR SUPPORTERS THEN U.S. ACCEPTED AS THEIR PROPERTY NATIVE GOVERNMENT LANDS CROWN LANDS [illegible] DISREGARD TO NATIVE CUSTOMARY RIGHTS. WHEN THE ISLANDS WERE ADMITTED INTO THE UNION THE U.S. GAVE THOSE LANDS KNOWN AS 'CEDED LANDS' TO THE STATE OF HAWAII NOT TO THE NATIVE GOVERNMENT FOR USE ACORDING TO NATIVE CUSTOMARY RIGHTS.

THE ACTIONS OF THE VARIOUS REPRESENTITIVES OF THE U.S. CLEARLY INDICATE DIRECT INVOLMENT IN THE OVERTHROW OF THE NATIVE GOVERNMENT.

THE U.S.A. MUST BE HELD ACOUNTABLE FOR THE ACTIONS OF ITS REPRESENTATIVES; AND IT MUST RETURN TO THE NATIVE GOVERNMENT 'CEDED' LANDS AND THE STATE OF HAWAII MUST RETURN TO THE NATIVE GOVERNMENT 'CEDED LANDS' IT ACCEPTED FROM THE U.S.A. THE USA MUST PROMOTE A NATIVE GOVERNMENT REGARDLESS OF SIZE BECAUSE IT helped ELIMINATE IT.

Tim Newstrom
1750 Kalakaua #3227
Honolulu HI 96826



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

January 4, 1983

The Honorable Kina'u Boyd Kamali'i
Chairman
United States Native Hawaiians
  Study Commission
500 University Avenue, Apt. 1401
Honolulu, Hawaii 96826

Dear Kina'u,

Thank you for your letter of December 30, 1982, requesting comments on the "Draft Report of Findings" sections relating to housing and the Department of Hawaiian Home Lands (DHHL). I understand the magnitude and complexity of the task being undertaken by the Commission. Hopefully, my comments will be helpful in this regard.

Section B: Housing Characteristics

An ongoing problem has been the lack of data on Hawaiians and the difficulty in conducting crosstabulations without affecting the reliability of the data. Data from different sources are based on different methodologies, different definitions, and different samples. Fortunately, the Commission was able to obtain special tabulations from the U. S. Bureau of the Census and this sole source of data was used.

I suggest that additional analysis be conducted, if possible, to provide more information on the "availability" of housing to Hawaiians. For example, your staff could design a methodology using current market interest rates, Hawaiian household income levels, and value of owner-occupied housing units in Hawaii to derive an estimate of Hawaiian households which are effectively excluded from the housing market due to low income. This can be compared to Hawaii and United States figures. The analysis can be taken further by considering household size, that is, per capita income. A similar design can be developed for renters using a rule-of-thumb of, say, 25% or less of income for rental costs.

Another factor which affects the housing situation for Hawaiians is the existence of DHHL's housing program. There are about 2,900 leases with residences. Assuming an average household size of 5.0 persons, this amounts to 14,500 persons residing on Hawaiian Home lands or 8.3% of the total native

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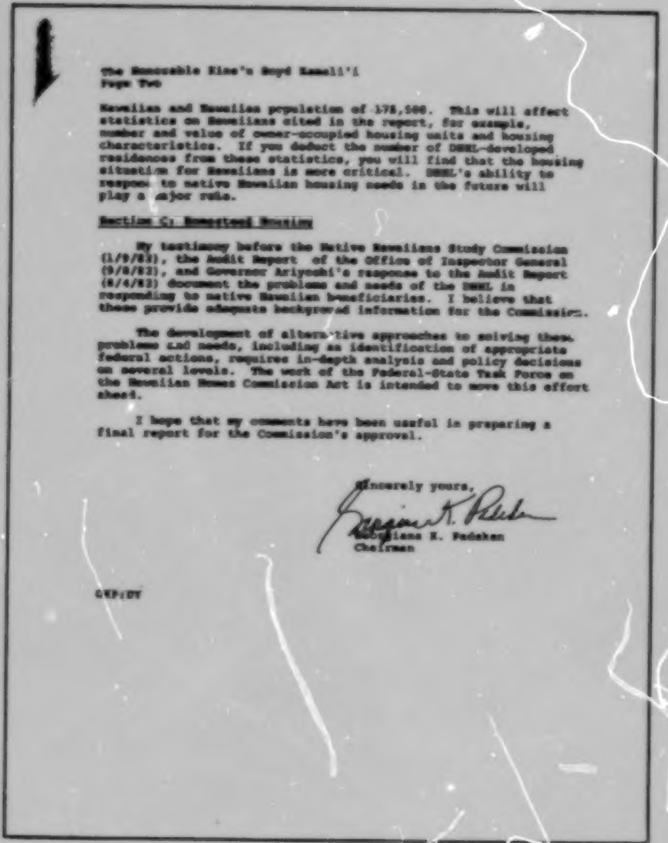


The Honorable Kina'u Boyd Kamali'i
Page Two

Hawaiian and Hawaiian population of 175,500. This will affect statistics on Hawaiians cited in the report, for example, number and value of owner-occupied housing units and housing characteristics. If you deduct the number of DHHL-developed residences from these statistics, you will find that the housing situation for Hawaiians is more critical. DHHL's ability to respond to native Hawaiian housing needs in the future will play a major role.

Section C: Homestead Housing

My testimony before the Native Hawaiians Study Commission (1/9/82), the Audit Report of the Office of Inspector General (9/8/82), and Governor Ariyoshi's response to the Audit Report (8/4/82) document the problems and needs of the DHHL in responding to native Hawaiian beneficiaries. I believe that these provide adequate background information for the Commission.

The development of alternative approaches to solving these problems and needs, including an identification of appropriate federal actions, requires in-depth analysis and policy decisions on several levels. The work of the Federal-State Task Force on the Hawaiian Homes Commission Act is intended to move this effort ahead.

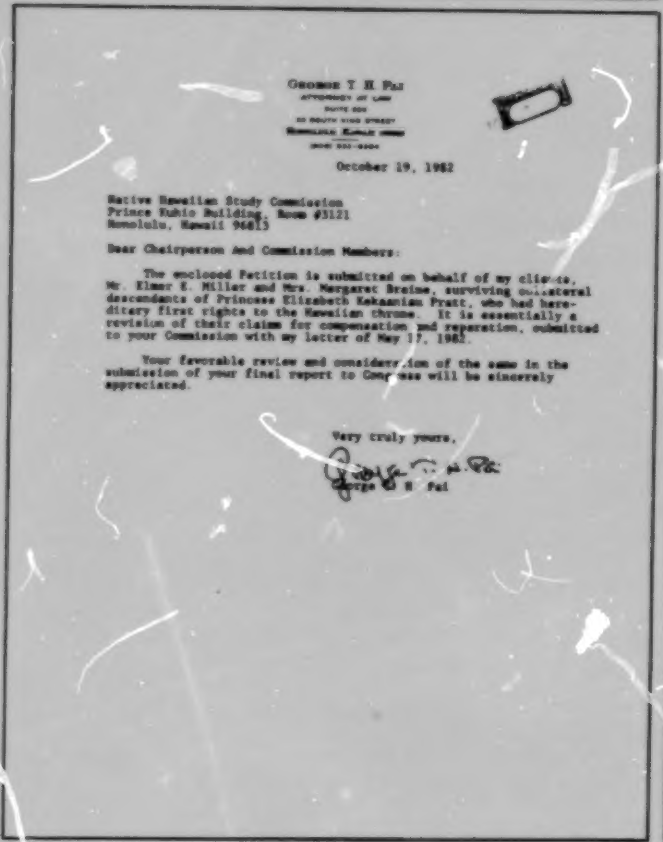
I hope that my comments have been useful in preparing a final report for the Commission's approval.

Sincerely yours,

Georgiana K. Padeken

Georgiana K. Padeken
Chairman

GKP:DY



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(808) 531-5204

October 19, 1982

Native Hawaiian Study Commission
Prince Kuhio Building, Room #3121
Honolulu, Hawaii 96813

Dear Chairperson And Commission Members:

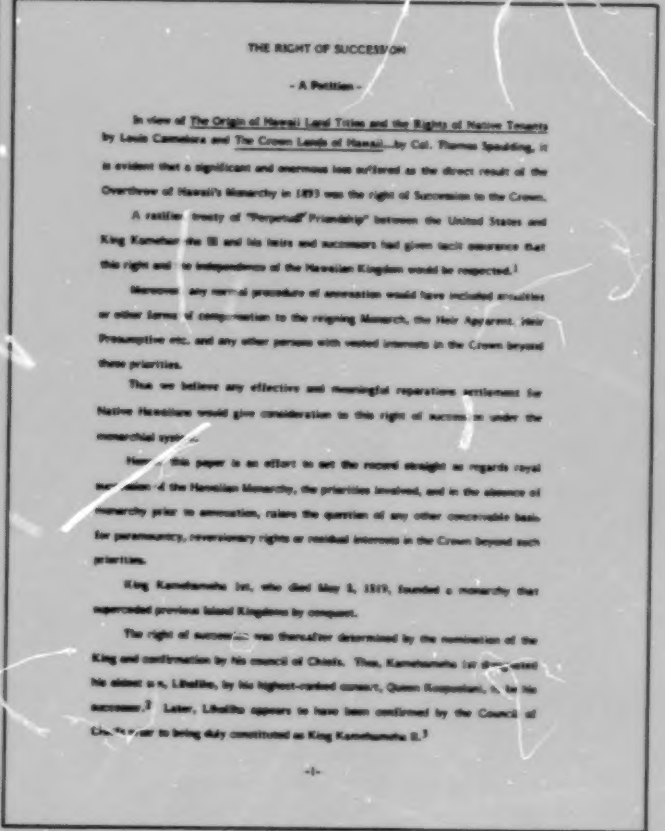
The enclosed Petition is submitted on behalf of my clients, Mr. Elmer E. Miller and Mrs. Margaret Braine, surviving collateral descendants of Princess Elizabeth Kekaaniau Pratt, who had hereditary first rights to the Hawaiian throne. It is essentially a revision of their claims for compensation and reparation, submitted to your Commission with my letter of May 17, 1982.

Your favorable review and consideration of the same in the submission of your final report to Congress will be sincerely appreciated.

Very truly yours,

George T. H. Pai

George T H Pai



THE RIGHT OF SUCCESSION

- A Petition -

In view of The Origin of Hawaii Land Titles and the Rights of Native Tenants by Louis Cannelora and The Crown Lands of Hawaii...by Col. Thomas Spaulding, it is evident that a significant and enormous loss suffered as the direct result of the Overthrow of Hawaii's Monarchy in 1893 was the right of Succession to the Crown.

A ratified treaty of "Perpetual Friendship" between the United States and King Kamehameha III and his heirs and successors had given tacit assurance that this right and the independence of the Hawaiian Kingdom would be respected.[1]

Moreover, any normal procedure of annexation would have included annuities or other forms of compensation to the reigning Monarch, the Heir Apparent, Heir Presumptive etc. and any other persons with vested interests in the Crown beyond these priorities.

Thus we believe any effective and meaningful reparations settlement for Native Hawaiians would give consideration to this right of succession under the monarchial system.

Hence, this paper is an effort to set the record straight as regards royal succession of the Hawaiian Monarchy, the priorities involved, and in the absence of monarchy prior to annexation, raises the question of any other conceivable basis for paramountcy, reversionary rights or residual interests in the Crown beyond such priorities.

King Kamehameha 1st, who died May 8, 1819, founded a monarchy that superceded previous Island Kingdoms by conquest.

The right of succession was thereafter determined by the nomination of the King and confirmation by his council of Chiefs. Thus, Kamehameha 1st designated his eldest son, Liholiho, by his highest-ranked consort, Queen Keopuolani, to be his successor.[2] Later, Liholiho appears to have been confirmed by the Council of Chiefs prior to being duly constituted as King Kamehameha II.[3]

-1-

Similarly, Kamehameha II nominated his full brother, Kauikeaouli, to be his successor in 1823 with the approval of the Council of Chiefs in Lahaina, Maui. Kamehameha II then journeyed to England and Kauikeaouli was to succeed him if he did not return.[4]

After the death of Kamehameha II in England, Kauikeaouli, on July 14, 1824, was reconfirmed by the Chiefs, and he succeeded to the throne as Kamehameha III.[5]

In 1840 Kamehameha III founded a Constitutional Monarchy for which he voluntarily divested himself of the power and attributes of an absolute monarch in an apparent effort to adapt traditional Hawaiian sacred Kingship, to an extent, to foreign concepts of Kingship and democratic political forms.

In the early years under the constitution of 1840, as Dr. Ralph Kuykendall points out, the "Privy Council" was the old Council of Chiefs.[6] This constitution provided that the chiefs shall sit in all government councils, and that

> The kingdom is permanently confirmed to Kamehameha III and his heirs, and his heir shall be the person who he and the chiefs shall appoint during his lifetime, but if there should be no appointment, then the decision shall rest with the chiefs and House of Representatives.[7]

Failing a surviving issue of his body by his heir-producing consort, Queen Kalama, Kamehameha III had sponsored the Royal Boarding or Family School for future monarchs in 1839.

And by a preemptive selection of "heirs", an inner group of eligible royals marked for the throne in childhood was designated for the Royal Boarding School.

Queen Liliuokalani in her autobiography states:

> At the age of four I was sent to what was known as the Royal School because its pupils were exclusively persons whose claim to the throne was acknowledged.[8]

Accordingly, by an Order of His Hawaiian Majesty in Council (i.e. with the Nobles or Chiefs et al), duly promulgated, attested by Kekauluohi (Premier), and signed by Kamehameha III June 29, 1844, these children were proclaimed

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and published as such by the official government Press.[9] To the left the list of 15 scions begins with Alexander Liholiho, "The Heir Apparent to the Crown" and ends at the right with Elizabeth Kekaaniau. Beyond Alexander, there appears to be no clear order of priority among them for the throne, though by publishing them eligible royals, the Monarchy specifically recognized as valid their hereditary first rights to the throne.

The procedure for selection adopted by the King, Premier, Nobles or Chiefs et al in Privy Council is recorded under the second of a series of organic acts passed by the Houses of Nobles and Representatives.

> ...application shall be made in writing, by the Minister of Public Instruction, setting forth the rank and age of such child together with the reason for allowing him or her the privilege of tuition in said Royal school. The minister of Public Instruction at the direction His majesty in Privy Council, shall, if advised so to do, enroll the name of said child as among the pupils of the Royal school...[10]

And in the report of the Minister of Public Instruction to the Legislature in 1846, there is the affirmation that the students of the Royal Boarding School would meet the strict demands of Tradition:

> ...this school has been in existence seven years, and has from its commencement embraced all children of the Highest class of chiefs for whom it was particularly established...[11]

Further, the students who receive instruction at this select boarding school would be groomed to meet the minimum demands of royal fitness. The report continues:

> ...and when time and firm moral and religious sentiment shall have put the finish on their characters, there will then be nothing wanting to make them all that a nation can desire or need in rulers.[12]

Hawaii's once "frozen culture" was entering a new world in taking its place in the community of nations. And this was the price of gaining recognition of its independence by the super powers: United States, Britain and France.

Consequently, the new monarch, would have to be able to deal effectively with foreign powers and to have a mastery of forms recognizable by them.

A list of a 16-fold designation of Royal students of 1847 appears in the Polynesian:

Moses Kekuaiwa
Alexander Liholiho
James Kaliokalani
David Kalakaua
Lot Kamehameha
William C. Lunalilo
Peter Y. Kaeo
William Kinau Pitt
Jane Loeau
Abigail Maheha
Mary Paaaina
Lydia Kamakaeha
Bernice Pauahi
Elizabeth Kekaaniau
Emma Rooke
Victoria Kamamalu[13]

As with those with a "Prescriptive or Constitutional right" to rule, detected by Judge-Historian Fornander,[14] these children were the highest indigenous authorities by birth. In a hierarchal ordering of successive grades of chiefs, they were the paramount native authorities by lineage, the great Alii of the Kingdom with first rights to the throne recognized in a transitional period of defeudalization which culminated with the great Mahele.

Thus did Kamehameha III, the last absolute monarch and founder of the Constitutional Monarchy, exercise royal prerogative in setting up a system of succession with due regard for the sanctity of tradition and the legitimacy of those who exercise authority under it.

In so doing, he established in effect a Pool of Princes from which future monarchs would be drawn. And thus provided, the pool would minimize the dangers of interregna.

There were four constitutions of the Hawaiian Kingdom (1840, 1852, 1864 and 1887). The pool of youthful eligibles would come into play under later constitutions, all of which were mere revisions with changes in certain areas.[15]

The first from the Pool of Princes to ascend the throne was Alexander Liholiho, adopted son and nephew of Kamehameha III. Kamehameha III died December 15, 1854, childless, by his consort. And Alexander had been nominated and confirmed by the House of Nobles, and proclaimed successor to Kamehameha III under article 25 of the 1852 constitution.[16]

After becoming King Kamehameha IV, Alexander proclaimed by the terms of article 25, his son, Albert Edward, by his heir-producing consort Queen Emma, to be his successor.[17]

But the infant Prince predeceased his father, who died Nov. 30, 1863, childless and without a proclaimed heir. In default of a proclaimed heir, article 25 provides for an election by parliament.[18]

However, in an apparent coup d'etat, Kamehameha V, brother of Kamehameha IV, assumed the throne November 30, 1863. Nonetheless, this was met with general acquiescence, for as Dr. Kuykendall states, he was "universally recognized" as the "rightful successor".[19]

Prince Lot, who became Kamehameha V,

1) had been a member of the Pool of eligible Royals.

2) the latest legislative assembly and the late King had approved a Constitutional amendment, which would add his name to the line of succession via article 105 (though the process was incomplete and required passage also by the next legislative assembly).[20]

3) had been proclaimed by the Kuhina nui or Co-ruler, his sister, Victoria, with the approval of the Privy Council.[21]

Hence Kamehameha V ascended the throne without taking the oath of office, and this paved the way for the promulgation of the Constitution of 1864.

Later, predeceased by his full sister, Victoria, Kamehameha V died a bachelor without a proclaimed heir in December 11, 1872, and survived by his paternal half sister and heir at Law, Ruth Keelikolani.

Failing a proclaimed heir or heiress to the throne, the monarchy's Pool of Princes made tenable the device of election under Article 22 (formerly 25) by Parliament as a means of averting civil war between equal or near equal claimants to the throne.

Now, the two main eligible Royals from the pool in contest were Col. David Kalakaua and Hon. William C. Lunalilo.

The Acting British Commissioner, Theo. H. Davies, in writing about Lunalilo in his official dispatches to London in 1872 states,

> Prince William C. Lunalilo...is the highest
> rank...undoubtedly nearest to the
> throne...no one denies that Lunalilo has the
> best right to the throne.[22]

Because of his superior claim, Lunalilo was urged to simply proclaim his accession.[23]

He chose instead to call for a plebiscitum and submit to an election. He was unanimously elected and on January 8, 1873 became King Lunalilo I, the "stirps" of a new Dynasty under article 22.[24]

But Lunalilo died February 3, 1874, a bachelor without a proclaimed heir, and survived by his father, and lifetime heir-at-Law, and his cousin and heir to his marine residence, Queen Emma.

U.S. Minister Henry A. Peirce, in an official dispatch to Secretary of State, Hamilton Fish explains why Lunalilo didn't appoint Queen Emma, who he appears to have favored.

> ...It was ascertained only four votes of the
> House of Nobles were favorable to her Emma's election[25]

Again, under the elective process the next monarch would be from the Pool of Princes. After three constitutions and the reigns of three kings, Col. Kalakaua would yet contest Queen Emma's right to rule. Both were former Royal Students.

In another official dispatch to the Department of State, U.S. Minister Peirce had reported:

> It is said, David Kalakaua...is active in the formation of a party to place him upon the throne in the event named Lunalilo's death; even in case a successor should be appointed by Lunalilo...[26]

But when Parliament chose Kalakaua, this was followed by an insurrection by Emma's partisans, quelled by American and British troops.[27]

After succeeding to the throne, King Kalakaua proclaimed under article 22 his brother, Leleiohoku, to be his successor February 12, 1874.[28] Later, when Leleiohoku died, Kalakaua immediately proclaimed Liliuokalani, his eldest sister, to be his successor.[29]

Kalakaua became King under the Constitution of 1864 under article 33[30] of which Kamehameha V had established the Secular Order of Kamehameha 1st.

Likewise under article 33, Kalakaua created more secular orders, decorations, as well as titles of honor.

Where specifically worded and appropriately applied, titles of honor would be of identification value at court ceremonies.

For example Kamehameha IV, by patent, had conferred on his son and constitutional heir, the style and title of

> HEREDITARY HEIR APPARENT OF OUR THRONE
> VIZ: THE PRINCE OF HAWAII[31]

The title was thus descriptive.

Kalakaua, on the other hand, in conferring by letters patent, titles of honor, didn't confine himself to the collaterals of his line, namely, his sisters Liliuokalani and Likelike, his niece, Kaiulani, or his Consort, Kapiolani. He went beyond these to extend such personal dignities (under article 33) to in-laws and other relatives, including Queen Emma in 1883.[32]

Later, Liliuokalani would confer by patent on her spouse, John Owen Dominis, the title "His Royal Highness the Prince Consort".[33]

We find this reminiscent of Philip Mountbatten, who in 1957, was created "Prince of the United Kingdom" though not in line of succession to the British throne.[34]

Nevertheless, much ado has been made over Kalakaua's wishes regarding succession beyond his duly proclaimed successors. Kalakaua wished the line of succession could have been extended beyond his brother, sisters and niece to even his consort, Kapiolani, her sisters and nephews.

Kapiolani was a granddaughter of Kaumualii, who had once been a rival King to Kamehameha the Great. Through negotiation, in the face of the latter's conquering power, Kaumualii was permitted the lifetime status of tributary chief under the absolute Kamehameha monarchs of the ceded territory of Kauai and Niihau.[35]

After Kaumualii died, his son, George Kaumualii, led a rebellion on Kauai and was defeated in the Battle of Wahiawa.

For Kalakaua, as constitutional monarch of a kingdom sanctioned by conquest to now wish to shift regal power to the Kaumualii line may have been regarded as somewhat treasonous, if not grounds in itself for revolution.

Yet, if Kalakaua wished to extend the line of succession beyond the Proclamation establishing Liliuokalani as his successor in 1877, the legal means to do so under article 80 (formerly 103)[36] was at his disposal for the 13 remaining years of his reign, provided he could secure the support of Parliament for two successive sessions.

Having failed to achieve this end, he could express his wishes regarding succession in his will (executed May 1, 1888 after the political scandals of his reign resulted in Crisis, which precipitated the "Bayonet" Constitution of 1887). However, both articles 22 and 80 (new article 82) in the new constitution clearly required the participation of the living and reigning King.

Under oath to support the above constitution, Kalakaua died January 20, 1891, childless by his consort, Queen Kapiolani. He was therefore succeeded by his proclaimed heir, Liliuokalani, January 29, 1891.

On March 9 of the same year, Queen Liliuokalani,
"...agreeably to article 22...failing an Heir Of Our body..." proclaimed her niece, Princess Kaiulani to be her successor on the throne.[38]

Under the existing constitution from which Liliuokalani derived her authority and was under oath to support, she was almost reduced to a ceremonial monarch with some veto power.[39] And while she could dismiss the cabinet ministers of her predecessor, once appointed, her own cabinet couldn't be dismissed at pleasure and was accountable to Parliament.[40]

Article 31 provides that

> the king and the cabinet belongs executive power.[41]

Thus, without the advice and consent of her cabinet, Liliuokalani could not act.

Hence, under the existing constitution there was a weakened monarch and a bicameral Parliament that had assumed defacto power.

In 1893 a revolutionary proposal for a new constitution was "presented" to Liliuokalani.

Nearly a ceremonial monarch, Liliuokalani couldn't promulgate a new constitution, more so without the consent of her cabinet ministers with whom she shared executive power.

To attempt to do so would be to violate her oath of office and thus forfeit her right to rule. To overstep her authority, too, would undermine the basis for confidence and legitimacy needed to command respect.

After the proposal was resisted by her ministers, it was officially rejected by Royal Proclamation signed by Liliuokalani and her cabinet, which stated that

> ...authority is given for the assurance that
> any changes desired in the Fundamental law
> of the land will be sought only by methods
> provided in the Constitution itself...[42]

In response, a mass meeting of people at Palace Square adopted a resolution that accepted this decision:

> **RESOLVED**, that accepting this assurance, the citizens here assembled will give their cordial support to the administration and endorse them in sustaining that policy.[63]

But Liliuokalani had at best considered the proposal and this resulted in a confidence crisis that precipitated her dethronement (or forced abdication) as well as the abrogation of the monarchy.

To determine actual victims of the Overthrow of 1893 apart from the Monarch-in-fact, who through no fault of their own, lost their political birthrights, it is necessary to ask what would have happened if the monarchy had survived the crisis of 1893 and been allowed to continue.

For one thing, Liliuokalani would continue to share her authority (under article 31) and thus be restrained by a cabinet that was accountable to Parliament alone. Her reduced role as monarch would be comparable to that of the present day Queen of England. And the strong bicameral Parliament, having assumed de facto power would be the effective king maker, after March 6, 1899, when Liliuokalani was predeceased by her collateral heir and proclaimed successor, Princess Victoria Kaiulani Cleghorn.

And any changes by constitutional means in the monarch's favor at Parliament's expense could readily be frustrated by "Cabinet Government".

Moreover, in view of the ongoing antagonism between the Kalakaua monarchs and Parliament, beginning with the first confidence crisis in 1887, followed by the second confidence crisis in 1893, it would appear that any nomination for the throne by Liliuokalani (which now required the consent of the cabinet was well as the acceptance and approval of the House of Nobles) beyond the collateral and proclaimed heir, Princess Kaiulani, might well serve as the proverbial "kiss of death".

Parliament could at best, however wait out the remainder of Liliuokalani's reign until terminated by death or voluntary abdication.

And there would yet be a third crisis in confidence in store in November 30, 1915 for the aging Liliuokalani, when a law suit alleging "Mental weakness" and "subjection to undue influence" on the part of Liliuokalani was initiated by her cousin, Jonah Kuhio Kalanianaole, Hawaii's second delegate to Congress.[64] The allegations were protested and denied by Liliuokalani and contradicted by credible witnesses.[65]

At any rate, Liliuokalani, widowed and childless by her heir producing consort, H.R.H. Prince Owen Dominis, and predeceased by Princess Kaiulani, died on November 11, 1917.

In default of duly appointed and proclaimed heirs, who then could presume heirship to Hawaii's throne?

We know that whatever the relative strength of monarch or parliament, the monarchy itself could not retain its integrity or legitimacy without adhering to the enduring and immemorial authority of customary law and tradition.

Hence, Parliament couldn't ignore the established system of succession, the customary Law and tradition governing an elective process under article 22, nor the Chief or Chiefess of the highest recognized lineage, who was by tradition eligible to inherit the throne.

As Queen Liliuokalani states:

> the unwritten law of Hawaii Nei required that the greatest Chief, or the one having the most direct claim to the throne must rule. The Legislature could not choose from the people at large, but was confined to a decision between rival claimants having an equal or near equal relation in Chiefhood to the throne.[66]

And in view of the acquiescence to Kamehameha V's Coup d'etat in the face of his indisputable right of succession, it would appear that unwritten law or common law had prevailed in his favor.

The government established by the constitutional monarchy may well be regarded as a COALITION that included and was in agreement with the Official

Royal School[67] as to who would be entitled to the throne, failing a proclaimed successor.

In default of proclaimed successors, there were genealogical priorities, recognized as valid, of persons at the highest rung of indigenous command in Chiefhood at birth.

Accordingly, through a selective process, only those few of the realm with the highest genealogical credentials, as well as demonstrated competence and personal qualities befitting an occupant of the Royal Office would comprise the Pool of Princes from which future monarchs would be drawn.

Thus did the monarchy, as a measure of common prudence, minimize the dangers of interregna by making provision against a failure in proclaimed successors.

Under the Constitution of 1840, the reigning King, Premier, Nobles or Chiefs et al in Privy Council established by 1847, a 16-fold designation of those eligible royals marked as rightful heirs to kingship.

This early preemptive selection of heirs of the highest lineages, confirmed by the King, nobles et al in Privy Council, was, with the exception of the "Heir Apparent" Prince Alexander, subject to reconfirmation as to priorities among themselves during interregna.

Next, under the Constitution of 1852 Kamehameha IV and Kamehameha V came forth from the Pool of Princes.

And then under the Constitution of 1864, King Lunalilo 1st, King Kalakaua, and the losing candidate, Queen Emma, were from this still-operative pool. Even Liliuokalani, too, was an eligible royal in her own right.

And now under the constitution of 1887 (all more revisional) in this Pool of Princes - specifically recognized as to their entitlement to the throne, and from which new monarchs would be drawn, there remained alone, Princess Elizabeth Kekaaniau Pratt, protestant, and widow of Hon. Franklin S. Pratt of Boston, Massachusetts.

Acknowledged and groomed by the monarchy to be a contingent successor, Princess Elizabeth would have no need to be acquainted with the obligations of a monarch.

A venerable high chiefess, her genealogical credentials (appendix) are described by respected Hawaiiana authority, Mary Kawena Pukui as

> ...impeccable and above reproach.[68]

The editor of the Honolulu Advertiser in writing of this "Last of Great Alii" states:

> The High Chiefess Kekaaniau's rank under the old chieftain system was unquestioned, neither was her lofty lineage which was truly royal, and which had its ramifications so far back that finally it mingled with legendary history.
>
> Descendant of great Kings & Queens, Chiefs, and Chiefesses, whose blood was the highest of all the Islands, Hawaii, Maui, Oahu and Kauai, Kekaaniau enjoyed the distinction of one concerning whose ancestry there was no question, no quibblings, no criticism. Her ancestors were not only kings but King makers.[69]

"Born in the purple", in default of Liliuokalani and her collateral heir and proclaimed successor, Kaiulani, Kekaaniau could, by reversion, assert royal legitimacy, as a senior princess of the blood (i.e. collateral) by virtue of direct descent from Kalaimamahu, eldest half brother of King Kamehameha 1st,[70] the Kamehameha ruling lineage having passed a threshold in depth of three generations.

Moreover, she was the adoptive granddaughter of Queen Kaahumanu,[71] who as Kuhina Nui or Co-ruler, shared the throne with Kamehameha II and ruled as regent during the minority of Kamehameha III.

Thus, by her traditional status and cultural role as living representative of the lineage ancestors, Kekaaniau would command respect and compliance in maintaining the existing order.

Under the Monarchy her position would be indisputable and unrivaled, since her peers had been eliminated not by force of arms or elective contests (as arbiters) but by their longevity, having lived until December 20, 1928. The choice among equals and near equals had been simplified, in time, by the process of elimination.

Kekaaniau's unique position may be likened to that of Kamehameha V, who assumed the throne as defacto successor or even more so, to that of Lunalilo, who was urged by partisans to simply proclaim his accession.

Charles T. Gulick, who was a Minister of the Interior under the Monarchy, testifies:

> As Prince Lunalilo was, according to the Hawaiian standard, of a chiefly rank superior to that of any one living at the time of his election to the throne, he had no competitors, and his elevation to an heretofore hereditary throne by a popular election seemed in no way to affect the current of events. The position was looked upon as almost his by right of inheritance, and was cheerfully confirmed to him by legal formalities.
>
> When, however, it became necessary to fill the throne a second time in the same way, the whole situation was quite different.[32]

In addition to her presumptive heirship, Princess Elizabeth was a woman of unblemished reputation. Her name was untainted by political scandal, nor was it linked with any revolutionary proposals to overthrow the existing constitution.

Far from the excesses of the Kalakaua monarchy, she would be identified rather with the long history of beneficence of the Kamehamehas, who appear to have better understood the role of a Constitutional monarch and the Kingship's responsibility to the ENTIRE nation in leading their people into the Modern World. The constitutional monarch as a unifying force was to be acceptable not by just some factions, but by everyone.

Thus, Kekaaniau was the last of the pool of eligible Royals, whose first rights to the throne by lineage and birth were recognized as valid by the monarchy.

Having the recognized right to reign, it would remain only for her to receive, under article 22, the formal recognition of the power to exercise that right.

However, should Parliament have chosen to subvert the system of succession by ignoring the justice of her indisputable claims, it would be at the risk of interregnum chaos and civil war as a final arbiter.

Likewise, in a final note on the succession of Lunalilo, Gov. Sanford B. Dole relates in his diary, that although Lunalilo submitted his claims to an election, he was determined to proclaim his accession if the election went against him.[33]

And as Acting British Commissioner Davies observed in one of his official dispatches to the Foreign Office in London:

> There is little doubt that on the King's decease, Lunalilo might have walked to the palace and simply declared himself king, and called on the few native troops to recognize him with success.[34]

In sum, we submit that Elizabeth Kekaaniau Pratt was entitled to succeed Liliuokalani to the throne:

(1) By the enduring and immemorial authority of customary law and tradition.

(2) By Seniority and inherent birthright.

(3) By surviving membership in the Pool of eligible Royals marked as rightful heirs to kingship.

(4) By Historical Precedent - by which the pool remained operative throughout three Constitutions and the reigns of Kamehameha III, IV, V and beyond the reign of the "stirps" of a New Dynasty, Lunalilo the 1st.

If the monarchy had survived, Princess Elizabeth was, with the passing of Liliuokalani, the rightful Queen Regnant of Hawaii and Stirps of a New Royal line through the only issue of her deceased brother, Gideon, who was Princess Theresa Owana Wilcox, widow of Hon. Robert W. Wilcox, Hawaii's 1st Delegate to U.S. Congress.

Besides the monarch in fact, through no fault of her own, and as direct consequence of the overthrow of 1893, Princess Elizabeth lost, irrevocably, the eventual right of succession to the throne of Hawaii, and was hence forever excluded from the inheritance, possession and enjoyment of the Crown, the Crown Lands income and a lifetime estate in Iolani Palace.

However, Liliuokalani was dethroned in 1893 and the monarchy was abrogated. In the absence of monarchy prior to annexation (1893-1898), can we conceive of a basis for paramountcy beyond the above priorities?

The Kamehameha Royal Clan was founded in conquest, which superceded the thrones of prior Kingdoms and made Kamehameha 1st the source of title to the Hawaiian Islands.[35] His absolute rights passed on with the Crown to Kamehameha II and then to Kamehameha III.

However, only if we accept the view of these rulers as representatives of the Kamehameha Clan and the Royal Clan as a corporate body of which the Kingship had been a possession by right of conquest, and if we consider that:

(1) Kamehameha III voluntarily divested himself of absolute powers to establish a constitutional monarchy.

(2) "...It was clearly the intention of Kamehameha III to protect the land which he reserved to himself out of the domain which had been acquired by his family, through the prowess and skill of his father the Conqueror, from the danger of being treated as Public Domain, it was also his intention to provide that these lands should descend to his heirs and successors, the future wearers of the Crown which the Conquer had won...[36]

(3) Eventually, the Kamehameha Clan would have retained for itself the Crown through its Senior Representative, Elizabeth Kekaaniau Pratt.

Then, there would arise the question of any reversionary rights or residual interests in the Crown for which survivors of the Kamehameha Clan during the absence of monarchy prior to Annexation (1893-1898) might be compensated.

RECOMMENDATIONS:

Since a normal procedure for annexation would have provided an acceptable settlement of annuities to the Monarch and those persons with first rights to the throne ______

But since Liliuokalani did accept a pension,[37] we recommend that over and beyond any reparations plan, the estates of the following three Heiresses of the Hawaiian Kingdom be compensated:

(1) Princess Victoria Kaiulani Cleghorn

(2) Princess Elizabeth Kekaaniau Pratt

(3) Princess Theresa Owana Wilcox

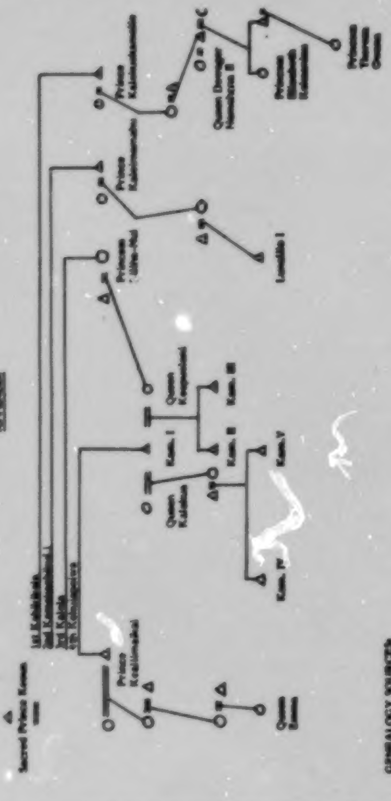
for the loss of the right of succession to the Crown and Crown land benefits.

And we suggest that beyond these priorities, a formula be devised for compensating living survivors of the Kamehameha Royal Clan for any conceivable reversionary rights or residual interests in the Crown by right of Conquest. We further suggest that all of the above might be done by a return of a portion of unused government lands.

Respectfully submitted,

George T. K. Pai
Counsel for Elmer E. Miller
et al, Petitioners
Honolulu, Hawaii, October 19, 1983

APPENDIX



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21 Kuykendall II, p. 124.

22 Davies to Granville, confidential, December 14-16, 1872, British Consulate: Letters to the Foreign Office, London. F.O. 58/132.

23 Hawaiian Gazette, February 11, 1874.

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25 Henry A. Peirce to Hamilton Fish, January 29, 1874, Report of the Historical Commission of the Territory of Hawaii (Honolulu: Hon. Star-Bulletin, 1929), p. 33.

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28 Hawaiian Gazetter, February 18, 1874.

29 Ibid., April 18, 1877.

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32 Pacific Commercial Advertiser, February 17, 1883.

33 Daily Bulletin, March 28, 1891. John Owen Dominis, through not an eligible royal, received special permission to participate in the Royal Boarding School as a student-teaching assistant because his attributes and personal skills enabled him to serve as a peer model of deportment, diligence, etc. to the royal children. See Cooke, Amos Starr, The Hawaiian Chief's Children's School Rutland, Vt., C. E. Tuttle Co., 1970. p. 184.

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41 Lydecker, p. 162.

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44 Kalaniana'ole v Liliuokalani, 23 Haw. R. 473.

45 See testimony of Lucy Ward, Judge Humphreys and Dr. Sinclair as reported in Honolulu Star-Bulletin March 27, 1916, Honolulu Advertiser April 8, 1916, and Honolulu Star-Bulletin April 19, 1916, respectively. See also: Liliuokalani's comments in "Story of Queen's Trust. . ." Honolulu Advertiser April 9, 1916.

46 Liliuokalani, p. 43.

47 Mr. Cooke's Official Royal School concluded an 11 year "successful experiment" when it disbanded in 1850. This family-style boarding school is not to be confused with day schools that followed which some of the eligible royals attended in "mixed" classes with other students of the Kingdom.
There was Mr. Fuller's shortlived "Royal Day School" in [illegible] (enrollment total 65) with a different purpose and an admission policy open to even non [illegible], and next, Mr. Beckwith's "Royal Public School" in 1852 (enrollment total 18[illegible] [illegible] admissions open to the general public. See Minister of Public Instruction Reports for October 21, 1850 (p. 25) and April 14, 1852 (p. 41). Hawaii State Archives.

48 Mary Kawena Pukui Affidavit, Bureau of Conveyances Liber 12300 p. 762.

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Critic of the Draft Report of findings
for the Native Hawaiian Study Commission.

I am Kawaipuna Prejean, Nā Hawai'i Au. I would like to respond to the findings of the 1st draft of your report. I hope that my comments will not find its way to the waste basket where it seems that the more than 150 hours of heartfelt testimony presented to the Commission during the January 1983 hearings apparently ended up.

Regardless of the innocuous attempt to revise history by this ignoble group, I feel compelled to respond to this most recent assault our human rights and inherent rights of the indigenous aboriginal people of Hawai'i Nei.

Ever since the first westerner alleged to be Captian James Cook stumbled upon the shores of Hawai'i, it has been a continuing invasion of exploiters attempting to dispossess the original inhabitants of their Aina (land) and natural resources. The deadly tools of epidemics and gun boat diplomacy as well as intermarraige were used to achieve these ends.

To allow the statements contained in your report to go unchallenged, would be to let the present and future generations of Nā Hawai'i Makou, the indigenous aboriginal people of these islands be cheated out of their birthright and God given entitlement. We have used, occupied, cherished and revered all these sacred islands since time began. From Papapa (Kure) isle in the northwest to the Big island in the southeast.

For a group of people whose ancestors ran away from Europe to escape persecution, I wonder why so much reference is made to the european model of government. The indigenous members of the Commission know that Hawai'i was unique. Our Alii was

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Native Hawaiian Study Commission
Page 2

unlike the slave masters of europe who expected the citizens of the soil to do all the work and keep the royalty in its opulence. The Chiefs of old, before falling victim to germ warfare deliberately introduced by the invaders to decimate the race, toiled in the earth with the Makaainana or citizens of the soil.

No matter how you attempt to individualize ownership of the land, either by the creation of Kings or Queens, this could not diminish or encrouch upon the inalienable rights of the first citizens of the first nation Hawai'i.

We recognize the continuous scheming involved with the increasing attempts of the land grabbers which manifested itself in the Great Division of 1848. This lead to the next tactic of the colonizer; confusion.

Whitemans laws were never designed for fairness and compassion. It was used for manipulation and theft. This was clearly demonstrated with the usurping of over 700,000 acres by foreigners following the division of 1848.

I would hope that the larger American and Pacific community will have the opportunity to become cognizant of the rebuttal to your findings.

The absence of a Religious section in the report is an added insult to the first people of Hawai'i. I expect when this section is completed, it will reflect a bias in favor of your intentions to eradicate our rights and expunge your responsibilities for the woeful situation we are presently in.

The indigenous people of Hawai'i like the many indigenous nations in lands claimed by America, have a inextricable bond to the land.

Native Hawaiian Study Commission
Page 3

We have a spiritual attachment to the land. The earth is packed with the bones of our ancestors and we are intertwined with the Aina and all the rest of the natural environment. Land is God! and Hawai'i is not for sale!

Neither I nor my associates have given our consent to the horrible injustices and crimes inflicted on our ancestors by those people who with lust & greed would steal our life giving force,the land.

With the racist posturing by this unilateral attempt to extinguish our rightful aborignal title,to an ever diminishing land base, we can see why the U.S. is a declining empire. For the U.S. is built on other indigenous peoples property and lives.

With the making and breaking of more than 380 Treaties with other first nations we can understand more fully why more people refuse to believe the media hype that falsely protrays America as and enlightened country.

We of course would like compensation for the past and present injustice and oppression committed against our people. Compounded from the time of the racist rifle companies who hid under names like the committee of safety. In truth these racist groups were hazardous to our health and well being.

Your report fails to mention the many political prisoners forcefully taken against their will to the leper settlement of Kalaupapa while their lands where stolen in their absence. These unfortunates were victimize by the cold blooded thieves bent on economic gain.

You artfully overlook the genocidal act of deliberately importing 50,000 male laborers to work in a debt bond situation, without their female counterparts, to breed out the indigenous population.

Native Hawaiian Study Commission
Page 4

Your military occupies an enormous amount of land without paying a cent to the true landlords. They continue their drunken behavior and disorderly conduct in our communities. Yet the inducement of cheap PX beer and discriminatory commissary privileges fall far short of legitimizing the theft of our land or the desecration of the many sacred sites.

The only point we concur on in the report is that both the # DLNR and the DHHL are both incompetent. Both of these farcical state agencies have caused immeasurable misery to untold indigenous OHANA, families.

We have witnessed the continued failure of the governments favorite sons and daughters who accept inadequate grants from government to keep quiet and not rock the boat. When they should take the lead in standing up for our rightful land claims and true self-management. Mindful that the Aina is essential to our survival.

We need to regain the rightful use of our natural resources and land immediately. Not to be leased for 50 or 99 years, but forever. Those of us who do not wish to emulate the ways of the invaders should not be subjected to the intimidation of an ill founded government or institutional violence.

Since we have repeatedly gone through judicial gymnastics [illegible] which has never resulted in any protection of our inherent rights as human beings or our aboriginal claims, we now seek the support of the global community who is familiar with the distructive conduct of the U.S. and call for a Tribunal of First Nations including the Pacific Nations to access the Damage U.S. foreign and domestic policies have had on our welfare.

# DLNR Department of Land & Natural Resources
DHHL " " Hawaiian Home Lands

Native Hawaiian Study Commission
Page 5

We realize the theft of our land did'nt occur overnight. It had its beginnings with people like Gen. Schofield who coveted these islands 50 years before the U.S. inspired coup of 1893. All this for the continued colonization of other pacific countries.

Today we are encumbered by the deeds of [illegible] and his pagans who quite candidly worship money more than the needs of the American public. This behavior is only overshadowed by their loyalties to the multi-national companies who mistreat indigenous people globally for excessive profits for [illegible] elite few at the expense and suffering of the masses.

For many of us there is an increasing groundswell of resistance to the continued mistreatment by an invading government both federal and state. With our familiarity of historic fact, we know that subsequent to the dethroning of Queen Liliuokalani, the indigenous inhabitants of these islands have not been dealt with morally or legally by the western invaders.

No matter how many people covet our special home on this earth planet known as Hawai'i, or the placating attempts of salaried civil servants siding with their "bosses", These islands are not for sale.

Even with the maneuvering of setting up a King or Queen to conviently entrust "ownership" of these islands to facilitate the taking of that title from this royal families, the rights of the Hawai'i were inalienable. When you mention "crown" lands, we don't see a crown but just that life giving substance of the Aina.

The other illusions of these foreign governments divert our attention from pressing issues such as water rights, hunting

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Native Hawaiian Study Commission
Page 6

and fishing, geo-thermal and other pertinent issues.

Regardless of how difficult the task of achieving justice with dignity for the indigenous aboriginal people of Hawai'i maybe, our cause is just. With the active support of our people and the many non-native friends, we will be able to overcome the seemly insurmountable odds. Let us begin together.

O'ahu. The letter O stands for the planet earth. The word Ahu signifies temple. We ask that you respect this earth temple we call Kou Home, our home. And not try to take any more of it from us or the unborn to come.

The Native Hawaiian Study Commission
P.O.Box 50247
Honolulu, Hawaii 96847

November, 21, 1982

Re: Public Comment, PL 96-565, Title III, Section 303(c)

Commission Members;

Having read your draft report thoroughly and having reached my own conclusions by an analysis/comparison of Native Hawaiian and American Indian claims, there is only one conclusion I feel is possible to make with all due respect to the congressional mandate of the Commission, and that is; your report was extemporaneously prepared and negligent in lacking many vital and important elements, which absolutely must be a part of a study of Native Hawaiian subject matter. Further, in reaching this conclusion I must comment that it is nearly impossible not to detect an equivocal bias, which seems to be politically motivated favoring assimilation of the first people of Hawai'i into the dominant culture. Epitomely, such a prejudice can only be interpreted as an attempt to thoroughly entrench existing governmental paternalism and to purposely mislead the uncritical reader by presenting an illusory, if not completely false image of Native Hawaiian culture, needs and concerns.

Major questions have always existed concerning the role of the United States government in Hawai'i, both prior and subsequent to the overthrow of the Kingdom monarchy of 1893. These questions are not simple and have existed for in some cases over a century. From a Native Hawaiian perspective there is a crucial importance in evaluating these issues. It was plainly the result of a grass roots movement with respect to finding some answers to these questions that lead to the establishment of the Study Commission whereby Congress felt that only through a process of public scrutiny could focus be drawn enough to determine and seek a final resolution to the myriad of difficulties that presently and throughout history have confronted the first people of Hawai'i. However, in the draft report the Study Commission has maliciously chosen to ignor, even the most obvious of these major questions and thereby leave the people unanswered and the prospects for an equitible solution, in doubt.

As for the history contained within the report, it appears very consistently to advocate only one interpretation of fact and law, which by design favor a preconceived conclusion. The story told is solely a function of a racist view of American culture, with no real effort being made toward understanding Native Hawaiian societies, life style, thinking and feeling with respect to what was being done to their culture. There is an apparent blackout of everything the Native Hawaiian people might find particularly disturbing. The Study Commission accepted, without hesitation, patent misrepresentations which depict only the concept and point of view of the American compatriots who perfected the overthrow of the Hawaiian Kingdom. Moreover, historians like Gavin Daws and Ralph Kuykendall, the two leading references used throughout the study, do not develop properly the character of the Kingdom as it must of appeared to a majority of the native populace. Both of these authors are outrageously sympathetic to the white side and favors of American interests in Hawai'i. They give but little credit to the content of the Native Hawaiian Kingdom in the inter-national field, whereby more than one nation wanted control. Nor, how the United States government was willing to enter into a conspiracy with the traitorous white element of the Hawaiian citizenry. A history free of such gross moral implications can only serve as a manifest denial of Native claims.

Legal considerations established by the Study Commission have sought more to extend completely negative polemics against any possible Native Hawaiian claim than to express Native Hawaiian interests. The Commission favors arguments that would appear to abate the likelyhood of any native sovereigty remaining whereby Native Hawaiians might assume control over any of their remaining resources or reassuming control over land which may be returned to them. Of course, case law involving the sovereigty of American Indian tribal governments should be given considerable weight, due to the similarities shared by them and the first people of Hawai'i. However, some of the time-tested legal doctrines the Study Commission has attempted to use have been taken out of context, whereby they serve more greatly to confuse the idea of Native Hawaiian sovereigty than to defeat the possibility of a claim being legally upheld. Two of these basic misrepresentations are as follows;

1.) sovereigty is,"implicitly lost by virtue of their dependent status." and,
2.) sovereigty exists,"only at the sufferance of Congress and is subject to complete defeasance."

It is implied within the report that the existence of these findings would abate Native Hawaiian claims from achieving success in either the courts or Congress. A reader who is not well informed may be lead to believe that the United States government would not permit an indigenous form of government to be established within her borders. Nonetheless, in actuality there are nearly three hundred separate and distinct tribal sovereigties under the present administration, in addition the present national policy with respect to tribal sovereigty (Self-determination and Education Assistance Act, PL No.93-638), mandates a strengthening of tribal authority and control over their constituency and resources. The recognition of tribal sovereigty has even been compared to that of the States, since both have equal footing and must either resolve differences by mutual agreement or through litigation because in many instances Congress does not wish to interfere by taking sides, that is except where the U.S. trust responcibility is challenged. Even further, Congress must abide by the Constitution, which affords protection of tribal political liberty in the Fifth Amendment and due process, the Ninth and Tenth Amendments by virtue of restraints in assuring that the Congress reserve to the 'people' all powers not expressly delegated nor enumerated in the Constitution. In short, there is much more evidence to believe that the United States Congress would be willing to recognize the right of the Native Hawaiian people to continue to exercise sovereign authority over themselves, rather than believe that congressional authority is wholly unlimited and likely to abuse indigenous rights at either a whim or a fancy.

There is no dispute that a recognized Native Hawaiian sovereigty if it was held in the same light as tribal governments would be subject to the overall authority of the United States government. What the Study Commission has done is to confuse the issue of federal supremacy over the Native Hawaiians with a completely separate question regarding Native Hawaiian sovereigty. It might follow that the latter is actually a political matter rather than an issue of law, which is exactly the reasoning behind the establishment of this Study Commission. Hence, it should follow that the Study Commission would be called upon to concern its subject matter to areas of 'likeness' between the two indigenous groups (Native Hawaiians and Indians) more than that where 'differences' present such obvious problems in conception. In view that the report is so misleading the real question of Native Hawaiian soveriegnty has yet to be addressed or studied.

While the question of advocacy is within the realm of the Study Commission to decide it cannot be denied that they have chosen the least favorable and perhaps most offensive platform to try to defend. A similar posture was taken in 1977 by Rep. Lloyd Meeds, D-Wash, who issued a 41 page dissent to the work of the American Indian Policy Review Commission, who was issued a similar mandate by congress to study matters concerning American Indian groups. The style and some of the specifics mentioned in Rep. Meeds opposition is nearly identical to the work of the Native Hawaiian Study Commission. However, the total lack of objectivity of Rep. Meeds, his competence and that of his staff was severely questioned by different people accross the country and finally laid to rest by the work of the United States Civil Rights Commission in 1981, when in reviewing the effect and merit of the Backlash movement to tribal developments concluded that the premise of this movement in questioning the constitutionality of tribal developments is for the most part unfounded and meant more to appeal to political passion and ignorance of the majority, rather than having sound judgement. I would even go so far to suggest that anyone who cared to actually compare these two reports would sustain my judgement that the majority opinion of the earlier report contains a great deal more wisdom and fairness than the latter.

Another important concept concerning history which remains to be discussed is whether or not the United States government was in any way culpable for the events and circumstances finally leading to the overthrow of the Hawaiian Kingdom. This can only be done with reference to the body of rules which control the conduct of nations in their relations with each other. With respect to understanding the full value of the effect of christianity and its influence on the development of the Hawaiian Kingdom application of the principals of international law is the only way to tell the story. Here, in this light the history as told by the Naval Historical Center is full of many gross inconsistencies, which appear to be significant only for the sake of convenience. Speaking in an international context this present report can be seen as being as badly investigated and as racially prejudice as the Foreign Relations Committee hearings of 1894 or those of 1898. In the following paragraph I shall name but a few of the circumstances that I feel have been purposefully overlooked and hidden in rhetorical language, eventhough the facts are obvious and the conclusions easy to draw;

A conspiracy between the United States government and a traitorous white element of the Hawaiian Kingdom citizenry existed as early in Hawaiian history as the late 1860's. The United States, growing in power and might from the military build up during the Civil War was beginning to flex her muscles and was getting daring enough to test the waters in the Pacific to see if the political climate was right to advance American interests by the acquisition of some strategic bases from which to protect shipping routes should another war develop. With this in mind Secretary of State William H. Seward sent Secret Agent Z.S.Spalding to Hawai'i with personal instructions to investigate ways and means to acquire Hawai'i through annexation. Sec. Seward was known for his support of annexation and attempts to extend U.S. interests through imperialism. He related to Mr. Spalding his concern, increased protection in the Pacific given,the way Britain was able to reek havoc on U.S. shipping during the War of 1812 by virtue of her Island possessions in the Atlantic and how British privateers could never of preyed on American Whaling ships during the Civil War had the U.S. been able to cut them off from Hawai'i. Mr. Spalding took his job so seriously that despite the fact he saw opportunity to become rich in Hawai'i by jumping on-to the sugar bandwagon he reported against the advent of a Treaty

of Reciprocity with the Hawaiian Kingdom because he felt it might get in the way of annexation to the United States. Using his inside knowledge of exactly how far the U.S. was willing to go in order to obtain sovereignty over the Native Kingdom, Mr. Spalding later became one of the richest plantation owners in Hawai'i by speculating on sugar increases and purchasing land from bankrupt natives. In the early 1870's when things weren't moving fast enough Spalding encouraged the U.S. to give more incentive for action to the Annexationist's and complained bitterly because they didn't overthrow the monarchy and just take possession outright for the U.S.. Not only was Spalding a hawk, but his input was considered essential to the leaders of the overthrow and by his word, that the U.S. would not accept annexation unless the monarch was retained as a figurehead(as in Britain) the real revolution,which was suppose to take place in 1887 along with the Bayonet Constitution, was delayed a few years. But, the idea Spalding advocated was not all his and attempts to persuade King Kalakaua to go along with this plan can be traced to 1881. In fact, the United States Resident Minister Henry A. Pierce conspired with Charles Bishop exactly ten years prior regarding such a plan. After King Lunali.. turned the plan down the Minister wrote Secretary of State Hamilton Fish and said that Lunalilo was too much a favorite of the people (natives) and the only way for such a scheme to prevail would be for the U.S. to wait for a few more of the Kings line and old Chiefs to die first. But the traitors to the Crown recieved all the encouragement they needed when in 1892 president Harrison, after hearing that the Annexationist in Hawai'i were ready to move and had over 400 armed men ready to move, told Lorrin A. Thurston that the U.S. would be exceedingly interested if his plan to induce anarchy and take control of the government worked.

All of the above actions were specifically prohibited by United States foreign policy and agreements the U.S. had made with the Hawaiian Kingdom whereby the American government agreed to recognize Hawaiian independence and desire to remain neutral. Why isn't American interest in fair play being questioned? In 1871 the U.S. accepted compensation for a claim against Great Britain to the tune of 15.5 million dollars for failure to remain neutral during the Civil War, why is it not conceivable for the Kingdom of Hawaii to cite a similar breach of trust against the U.S.?

America had allot to gain through its' interest in the Hawaiian Kingdom. However, unlike circumstances surrounding the acquisition of land from American Indian tribes,in Hawai'i where there was still clearly a majority of the population who were native,American officials realized that the reservation concept being forged in the west would be a risky business, since the threat of revolution would always be eminent. Whereas with Indian tribes the U.S. could afford to trade sovereignty for land cessions in Hawai'i sovereignty was the main interest and not land. In addition there was the growing political realization that congress and the American public would never consent to actually buy Hawai'i, eventhough compensation was a basic rule required to extinguish native claims. By 1871 congress had about reached the end of the treaty making era and any subsequent devices would require not only a Senate vote, but also House concurrence. Moreover, by this point in time the Nicaragua (Panama) canal was a major concern calling for the U.S. to become a Pacific power in order that her 'back door' be protected. It should not alarm people today to learn that America was willing to practically revolutionize nearly all of Central America to gain control of that region, why is it so hard to conceive that covert activities were attempted in Hawai'i?

Understanding these political pressures is essential in learn-

the full measure of U.S. aggression in Hawai'i and how persons were compelled to betray the trust granted to them by virtue of citizenship in the Hawaiian Kingdom. Further, how U.S. compatriots used this advantage to bargain for acknowledgement of title to their settlements and a racist advantage over the native constituency.

In this vein, the so called hero's of the Hawaiian revolution appear nothing more than 'opportunists', like the carpetbaggars of the South who rushed in after the Civil War to exploit the citizenry. It's important to realize how the overthrow was systemic and pressured into action by the U.S., who felt threatened by Kalakaua's desire to unite the Pacific Islands, and saw hopes of U.S. control being dashed by a rising interest of the native majority in voting privileges. The price the U.S. would be required to pay was being raised almost daily. These are the real reasons why the so called 'sons of the Pioneers' rushed to the U.S. congress with a bill for annexation, and assured the Washington contacts that they could afford to bribe enough of the native State legislators to meet a public vote requirement. Why else would the U.S. government offer Liliuokalani a quarter of a million dollars to accept annexation?

Of course it can be said that these white traitors thought that they were acting in the best interests of all the people in wanting to see increased development take place in Hawai'i, but this just isn't so. There was absolutely no compassion ever exhibited by these business men in Hawai'i. The Minister Henry Pierce reported to the Secretary of State in 1872 that he strongly felt that given American justice or the blanket of protection of american concern that Native Hawaiians would fare no better in the American system than the American Indians or the Chinese in California. How could the Revolutionist's be concerned with the indigenous population when they were pursuing a policy of recruiting extraordinary numbers of immigrants each year to keep the wage demands of the native populace down? There concern was deffinitely not evident in the courts, where by American influence they held a strict monopoly on legal dispositions of lands and conduct.Where was there ever any concern except power and profit?

Secretary of State, James G. Blaine wrote to James M. Comly, Esq. in Honolulu on December, 1, 1881 requesting immediate action concerning the "leading men in Hawaii", with specific instruction to, "turn their thoughts discreetly in the direction of inviting American colonialization". He justified this request by saying the "decline of the native Hawaiian element in the presence of newer and sturdier growths must be accepted as an inevitable fact". He obviously felt the U.S. was then in line for control over the government due to the, "inevitable decadence and extinction of the native race, and its replacement by another", though he was sure to add, "in an American sense-not in an Asiatic or British sense". Was genocide the official U.S. policy with respect to American interests in Hawai'i?

There was never a plebiscite taken in Hawai'i and for one very good reason, it would never have passed! This is another convenience our favorite historians have taken in leading the masses to believe it doesn't matter. Like Sec. Blaine they wish us believe that it was inevitable for the more progressive democracy to assume control. However, some very important facts have been omitted. For example, in Lorrin A. Thurston's private collection there is a list of more than 400 members sworn to support the secret 'League' and not one Native Hawaiian in the group. But left out of the Thurston and Dole 'Memoirs', a three volume set published to justify their role in the overthrow and consequently left out of the popular versions of Hawai'i history, which are near carbon copies of these text, is the word "military", which was used in the original oath each of these members were sworn to uphold. A 'bloodless revolution' to uphold democratic principals is one thing, while importing arms from the United States to supply a military coup de'etat, is quit another, especially when the President of the United States and ally of the Hawaiian Kingdom, having prior knowledge, condones such a thing! Remember, the official U.S. policy proclaimed by President Jackson in 1836 and still in effect at this point in history was "to avoid all interference in disputes which merely relate to the internal government of other nations, and to recognize the authority of the prevailing party without reference to the merrits of the original dispute". Why is interference not being questioned, and if America can claim damages in an inter-national court, then whose justice is that bars the survivors of the Native Hawaiian Kingdom from being heard? The Kingdom of Hawai'i was force wed to the American capitalist interests, how is this injustice different from damages being claimed by the survivors of the Japanese internment camps?

CONCLUSION:

How can the Native Hawaiian Study Commission, of all people, view the first people of Hawai'i as people without a story, without a past, without a side to advocate? A study as irresponcible as this only serves to present [illegible] problems in front of the survivors and therefore becomes part and parcel to the overthrow, without a single disposition of any of the difficulty confronting these people.

With respect to the immense body of law effecting American Indian tribes, the Commission is negligent in making the assumption that because the American government assumed sovereign supremacy over the Hawaiian Kingdom, that the Native Hawaiian constituency can no longer be regarded as having any sovereign authority. Compensation can follow many different paths and being it that the political path can prove to be the most speedy and the most equitable, the Commission is likewise negligent in building a political bias into the framework of the Study by making assertions favoring the dissent in American Indian case law and not the majority opinion and public policy.

The Commission would do well to remember that, "the signs that tell tales, are the tell tale signs of malfeasance". By this I mean that the 'Revolutionists' of Hawaiian history can easily be betrayed by the vigor of their effort. They so stridently sought one single effort, so collectively and collaboratively with the United States government, that their hidden intent can only be regarded as conspicious, excessive and criminal. Here, is where the dearth of a claim must be made, because anything subsequent to this crime will ultimately lead back to this injustice. The 'Revolutionist' were blunt, insensitive and brutal in their aim to enjoin themselves with America's ambition, they never thought once about an actual balance between choise and necessity over greed, profit and title to property. American crimes against the Kingdom of Hawai'i, beginning with support of treason on down, are too numerous to mention. This dark spot in history needs to be addressed and the Commission had left this job to go undone.

Lastly, if you in any way believe that denial of the Native Hawaiian aboriginal rights to a claim at this point in time will somehow increase social cohesiveness in Hawai'i, then you are stupid in the least! I say this in view of all the injustice thrust upon the American Indian people, and how in the Commission report includes a symmetry which is almost an identical duplication to the perversity that favored the cowboys over the Indians.

Alexander H. [illegible]
Concerned American Indian citizen

DEPARTMENT OF HEALTH & HUMAN SERVICES
Public Health Service

Health Resources and
Services Administration
Rockville MD 20857

DEC 29 [illegible]

JAN 3

Mary M. Lyon-Allen
Executive Director
Native Hawaiians Study Commission
U.S. Department of the Interior
18th & C Sts., N.W. - Room 6220
Washington, D.C. 20240

Dear Ms. Lyon-Allen:

Thank you for the copy of the draft report of findings of the Native Hawaiian Study Commission which you sent me on October 8, 1982. In your letter transmitting the report you requested my comments on the report and on any issues not covered by the report and asked whether there are any specific programs within the Indian Health Service (IHS) that might address some of the needs of Native Hawaiians.

Native Hawaiians are not within the scope of the IHS program and there are no IHS programs specifically targeted to serve them. The regulations governing eligibility for IHS services at 42 CFR Part 36.2(b) states in pertinent part:

> (b) Indian includes Indians in the continental United States, and Indians, Aleuts and Eskimos in Alaska.

To the best of my knowledge, the most recent and comprehensive source of information concerning the physical and mental health needs of Native Hawaiians are the studies conducted by the Department of Health of the State of Hawaii which you have utilized as a source for your discussion of health issues in the draft report. A brief summary of the State's findings was published in the Congressional Record on April 9, 1981, in connection with the introduction of a bill, (S. 965) which would require this Department to prepare and transmit to Congress a special report on the health care needs of Native Hawaiians. To date, however, no action has been taken on this bill. A copy of the discussion which appeared in the Record is enclosed for your convenience and may prove helpful to you.

You may also wish to contact Acting Commissioner Casimer Wichlacz of the Administration for Native Americans, Room 5300, HHS North Building, who may be able to provide additional information or sources of information. His telephone number is 245-7776.

Page 2 - Mary M. Lyon-Allen, DOI

Another possible source of information on the health status of Native Hawaiians might be Dean Jerrold Michael of the School of Public Health of the University of Hawaii who can be reached by calling FTS 8-556-0220 and asking the operator for 808-948-8585.

I hope this information proves useful to you and if I can be of additional help to you, please let me know.

Sincerely yours,

Everett R. Rhoades, M.D.
Assistant Surgeon General
Director, Indian Health Service

Enclosure

CONGRESSIONAL RECORD — SENATE S 3793

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Native Hawaiian Health Care Needs Act of 1981".

Sec. 2. The Congress finds and declares that—

(1) the United States Government has a unique responsibility to promote the health and welfare of native Hawaiians;

(2) there is reason for concern about the health status of native Hawaiians;

(3) in 1970, the average life expectancy of native Hawaiians at birth was almost seven years less than the average life expectancy of the entire population of Hawaii;

(4) in 1975, the mortality rate for all major causes of death was higher among native Hawaiians than among members of any other ethnic group in Hawaii;

(5) the infant mortality rate among native Hawaiians is 20 percent, as compared to a 17 percent mortality rate for all infants in Hawaii;

(6) in 1975, native Hawaiians had a higher incidence of high blood pressure, [illegible], diabetes, arthritis, and heart disease than the members of any other ethnic group in Hawaii;

(7) in 1975, although young native Hawaiians comprised only 20 percent of the number of young residents of Hawaii, young native Hawaiians comprised 27 percent of the number of young residents of Hawaii who committed suicide; and

(8) information is needed concerning physical and mental health care needs of native Hawaiians and types of physical and mental health care assistance which would be effective to improve the health and welfare of native Hawaiians.

Sec. 3. (a) Within one year after the enactment of this Act, the Secretary of Health and Human Services (hereafter referred to in this Act as the "Secretary") shall prepare and transmit to Congress a special report on the physical and mental health care needs of native Hawaiians.

(b) The report required by this section shall contain—

(1) an assessment of the causes of and barriers to native Hawaiians in receiving physical and mental health care services;

(2) an assessment of the physical and mental health care needs of native Hawaiians; and

(3) specific recommendations for the development of a national strategy to address such needs.

(c) In preparing the report required by this section, the Secretary shall consult with the Commissioner of the Administration for Native Americans, the Administrator of the Alcohol, Drug Abuse and Mental Health Administration, the Director of the Indian Health Service, leaders in the field of health care and representatives of native Hawaiians.

Sec. 4. For purposes of this Act, the term "native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778. ●

By Mr. BARBER:

S. 966. A bill to amend chapter 13 of title 18 of the United States Code; to the Committee on the Judiciary.

[illegible]

● Mr. BARBER. Mr. President, I rise today to introduce legislation that would make the willful damaging of a cemetery, a building used for religious purposes, or any religious article contained therein a Federal crime.

As Americans there is no right that we cherish more dearly than the right to free exercise of our religious beliefs. That right is among the basic foundations of our Nation. And, there is no right more important to our future.

Some may believe that acts of destruction against religious buildings and cemeteries are isolated and harmless. I do not share that point of view. Few who have lived through World War II can forget that it was a few isolated ripples of violence toward religious minorities in Germany that led to a wave of violence directed toward Jews, Catholics, and Protestants.

America has a long and proud history of religious tolerance. However, at certain periods in our history we have experienced a rash of violence, committed by a handful of people aimed at certain religious groups. I rise today because I am concerned about the increasing number of such incidents in our country and abroad.

Last summer, a small gold box containing the remains of St. Herman of Alaska, the only American saint of the Orthodox Church of America, was stolen from St. Tikhon's Orthodox Monastery in South Canaan, Pa. Of course, these remains, so significant to the Orthodox Church in this country, can never be replaced.

In New York, there have been reports of Torahs being stolen from synagogues in Brooklyn. These most sacred scrolls of the Jewish faith are virtually priceless and the production of a Torah takes years. But more important, is that the theft itself is an act of violence against the faith.

No American should remain unalarmed by the bombings of Jewish synagogues late last year in Paris. The terror that overcame those synagogues during holy hours of sabbath worship cannot be ignored.

Unfortunately, the shame and the fear is not contained by national borders. Last year in the United States, there were six fire bombings or attempted fire bombings of synagogues and 13 cases of arson against Jewish religious institutions.

The Federal Government, charged with the responsibility of protecting the right of all Americans to freely exercise their religions, does not have adequate power to investigate acts of violence against religious institutions. This power is needed if we are to meet fully that responsibility, for how can Americans worship freely if they must worship in fear and if they must fear violations of the sanctity of their religious institutions?

This bill, Mr. President, is a matter of concern to all Americans. No religious institution is safe if all religious institutions are not fully protected and the rights of all Americans to practice their religion freely is threatened if any American's right is so threatened.

This bill attempts to meet the Federal responsibility by adding a new section to title 18 of the United States Code. That section would make it a Federal crime for any person to willfully damage a cemetery, a building used for religious purposes or religious articles contained in these places. It would also make the attempt to commit such destruction a crime punishable by Federal law. The penalties are graded on the basis of the seriousness of such offenses. [illegible]

Mr. President, this is a strong bill with stiff penalties aimed at curbing one of the most heinous crimes. But, the time has come to put those who would destroy or desecrate sacred places on notice that they will be subject to justice by the Government of the United States.

Mr. President, I request that the text of the bill be printed in the Record following my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 13 of title 18 of the United States Code is amended by adding at the end of the following new section:

"Section 247. Destruction or Theft of Property Used for Religious Purposes—

"Whoever, whether or not acting under the color of law, [illegible]

Sec. 2. The table of sections for chapter 13 of title 18 of the United States Code is amended by adding at the end the following new item:

"Section 247. Destruction or Theft of Property Used for Religious Purposes". ●

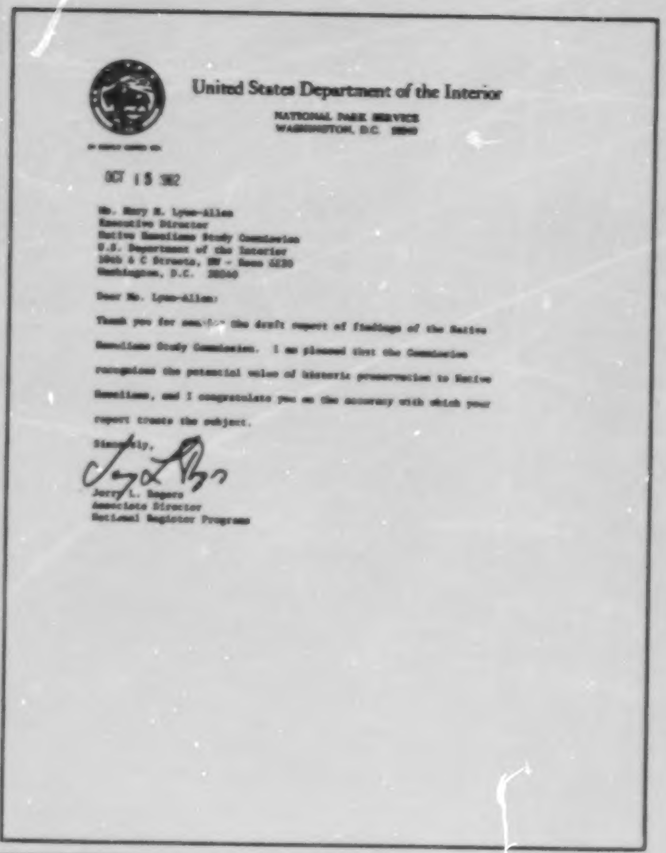
By Mr. ZORINSKY:

S. 967. A bill to establish a revolving fund to finance short-term export credit sales of U.S. agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

REVOLVING FUND TO FINANCE AGRICULTURAL EXPORTS

● Mr. ZORINSKY. Mr. President, the productive capability of the farmers of

CONGRESSIONAL RECORD — SENATE April 2, 1981



United States Department of the Interior

NATIONAL PARK SERVICE
WASHINGTON, D.C. 20240

OCT 15 1982

Ms. Mary H. Lynn-Allen
Executive Director
Native Hawaiians Study Commission
U.S. Department of the Interior
18th & C Streets, NW - Room 6220
Washington, D.C. 20240

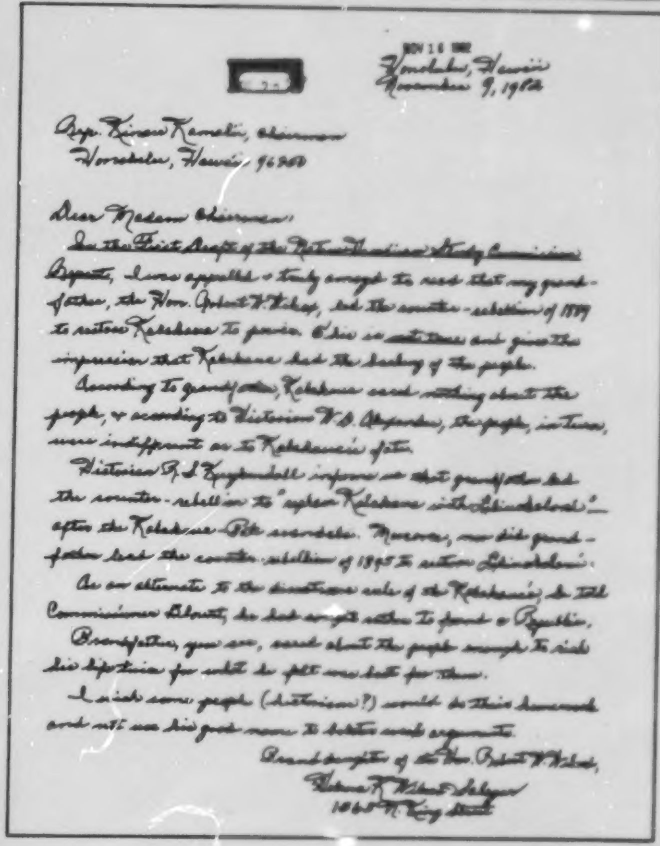
Dear Ms. Lynn-Allen:

Thank you for sending the draft report of findings of the Native Hawaiians Study Commission. I am pleased that the Commission recognizes the potential value of historic preservation to Native Hawaiians, and I congratulate you on the accuracy with which your report treats the subject.

Sincerely,

Jerry L. Rogers

Jerry L. Rogers
Associate Director
National Register Programs



NOV 16 1982

Honolulu, Hawaii
November 9, 1982

Rep. Kinau Kamalii, chairman
Honolulu, Hawaii 96800

Dear Madam Chairman,

In the First Draft of the Native Hawaiians Study Commission Report, I was appalled & truly annoyed to read that my grandfather, the Hon. Robert W. Wilcox, led the counter-rebellion of 1889 to restore Kalakaua to power. This is not true and gives the impression that Kalakaua had the backing of the people.

According to grandfather, Kalakaua cared nothing about the people, & according to Historian W. D. Alexander, the people, in turn, were indifferent as to Kalakaua's fate.

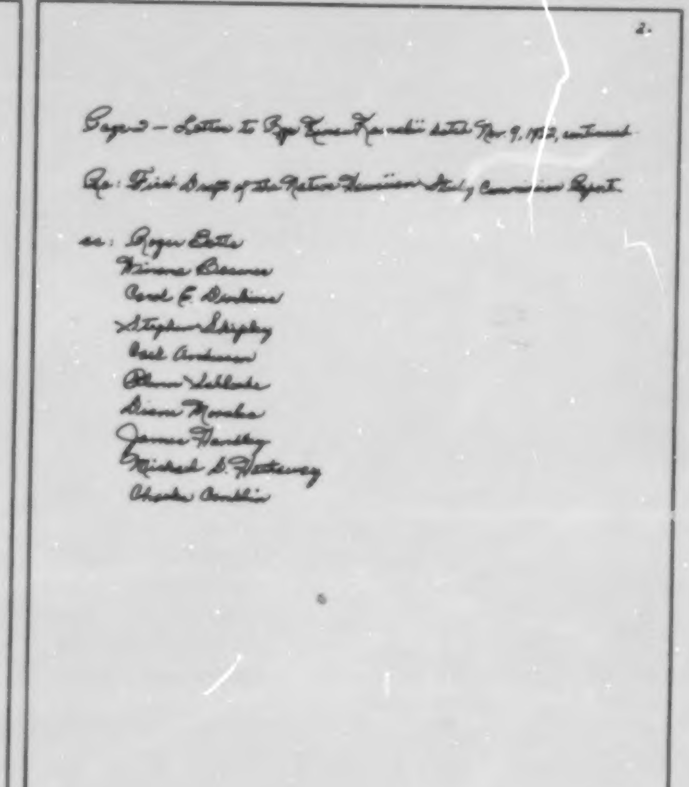
Historian R. S. Kuykendall informs us that grandfather led the counter-rebellion to "replace Kalakaua with Liliuokalani" — after the Kalakaua-Gibson scandals. Moreover, nor did grandfather lead the counter-rebellion of 1895 to restore Liliuokalani.

As an alternate to the disastrous rule of the Kalakaua's, he told Commissioner Blount, he had sought rather to found a Republic.

Grandfather, you see, cared about the people enough to risk his life twice for what he felt was best for them.

I wish some people (historians?) would do their homework and not use his good name to bolster weak arguments.

Granddaughter of the Hon. Robert W. Wilcox,
Helena K. Wilcox Salazar
1060 N. King Street

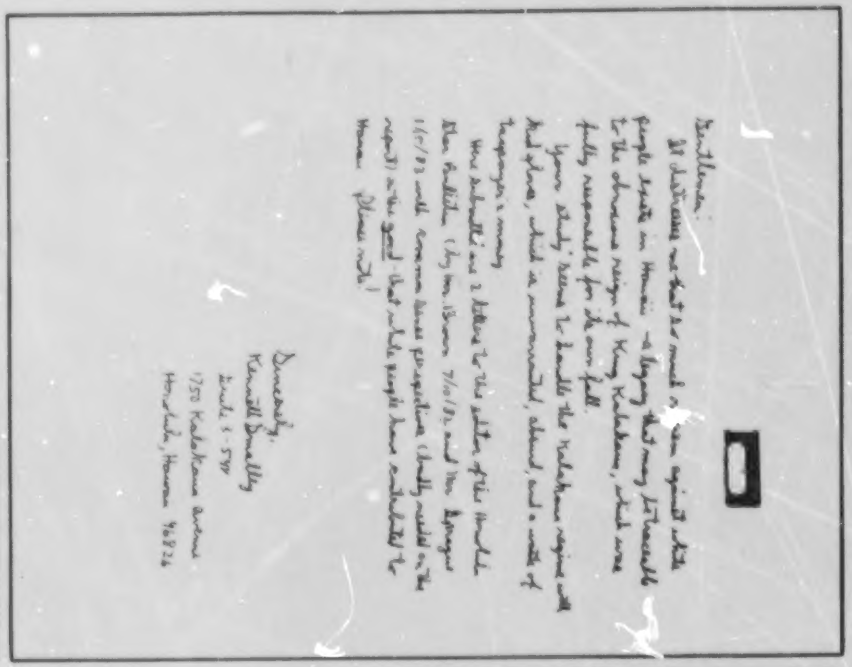


2.

Page 2 — Letter to Rep. Kinau Kamalii dated Nov. 9, 1982, continued.

Re: First Draft of the Native Hawaiians Study Commission Report.

cc: Roger Betts
Winona Beamer
Carol E. Dinkins
Stephen Shipley
Carl Anderson
Glenn Schleede
Diane Morales
James Hartley
Michael S. Hartney
Charles Conklin



[redacted]

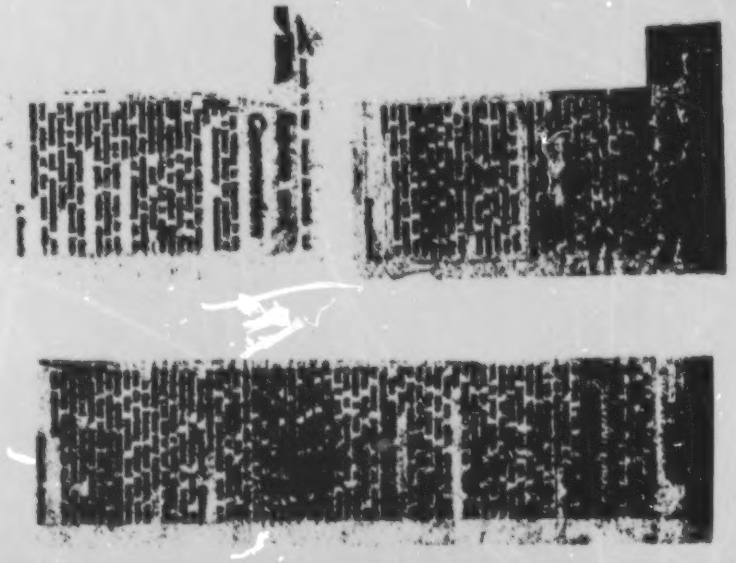
Gentlemen:

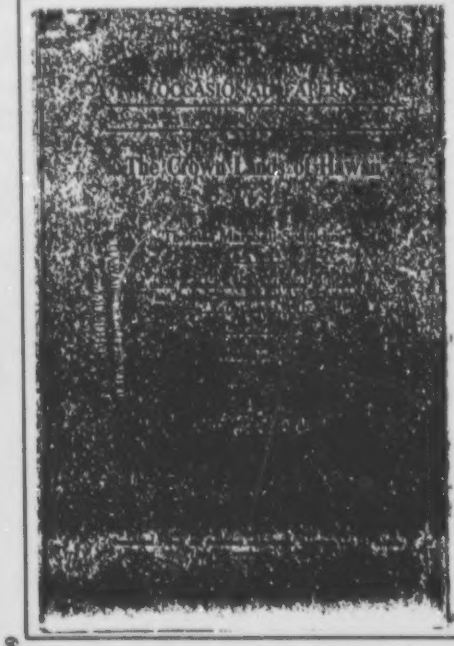
It distresses me that so much racism against white people exists in Hawaii — a legacy that may be traceable to the obnoxious reign of King Kalakaua, which was fully responsible for its own fall.

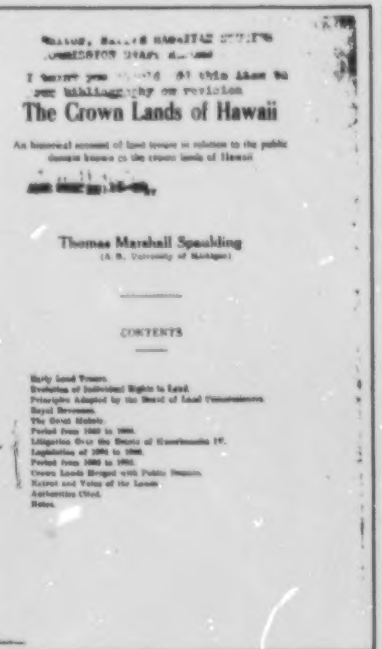
Your 'study' seems to handle the Kalakaua regime with kid gloves, which is unwarranted, absurd, and a waste of taxpayer's money.

Here submitted are 2 letters to the editor of the Honolulu Star Bulletin (by Mr. Brown 7/10/82 and Mr. Sprague 1/5/83 with common sense perspective (badly needed in the report) on the good that white people have contributed to Hawaii. Please note!

Sincerely,
Kenneth Smalley
Suite 3-544
1750 Kalakaua Avenue
Honolulu, Hawaii 96826







[illegible], Native Hawaiians Study
Commission Draft Report

I suggest you should add this item to your bibliography on revision

The Crown Lands of Hawaii

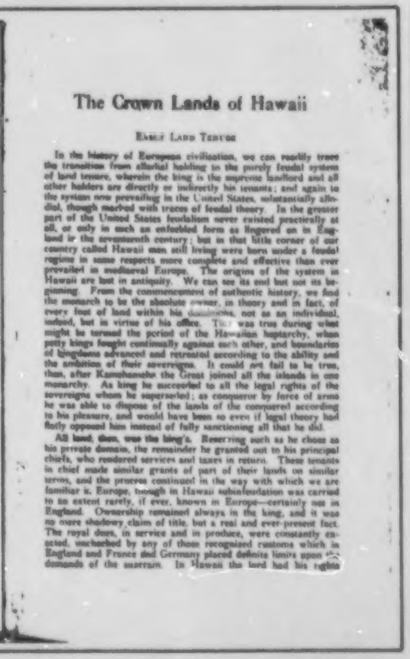
An historical account of land tenure in relation to the public domain known as the crown lands of Hawaii

[redacted]

Thomas Marshall Spaulding
(A. B. University of Michigan)

CONTENTS

Early Land Tenure.
Evolution of Individual Rights to Land.
Principles Adopted by the Board of Land Commissioners.
Royal Revenues.
The Great Mahele.
Period from 1848 to 1864.
Litigation Over the Estate of Kamehameha IV.
Legislation of 1864 to 1865.
Period from 1865 to 1893.
Crown Lands Merged with Public Domain.
Extent and Value of the Lands.
Authorities Cited.
Notes.



The Crown Lands of Hawaii

Early Land Tenure

In the history of European civilization, we can readily trace the transition from allodial holding to the purely feudal system of land tenure, wherein the king is the supreme landlord and all other holders are directly or indirectly his tenants; and again to the system now prevailing in the United States, substantially allodial, though marked with traces of feudal theory. In the greater part of the United States feudalism never existed practically at all, or only in such an enfeebled form as lingered on in England in the seventeenth century; but in that little corner of our country called Hawaii men still living were born under a feudal regime in some respects more complete and effective than ever prevailed in mediaeval Europe. The origins of the system in Hawaii are lost in antiquity. We can see its end but not its beginning. From the commencement of authentic history, we find the monarch to be the absolute owner, in theory and in fact, of every foot of land within his dominions, not as an individual, indeed, but in virtue of his office. This was true during what might be termed the period of the Hawaiian heptarchy, when petty kings fought continually against each other, and boundaries of kingdoms advanced and retreated according to the ability and the ambition of their sovereigns. It could not fail to be true, then, after Kamehameha the Great joined all the islands in one monarchy. As king he succeeded to all the legal rights of the sovereigns whom he superseded; as conqueror by force of arms he was able to dispose of the lands of the conquered according to his pleasure, and would have been so even if legal theory had flatly opposed him instead of fully sanctioning all that he did.

All land, then, was the king's. Reserving such as he chose as his private domain, the remainder he granted out to his principal chiefs, who rendered services and taxes in return. These tenants in chief made similar grants of part of their lands on similar terms, and the process continued in the way with which we are familiar in Europe, though in Hawaii subinfeudation was carried to an extent rarely, if ever, known in Europe—certainly not in England. Ownership remained always in the king, and it was no mere shadowy claim of title, but a real and ever-present fact. The royal dues, in service and in produce, were constantly exacted, unchecked by any of those recognized customs which in England and France and Germany placed definite limits upon the demands of the suzerain. In Hawaii the lord had his rights [illegible] A similar source of income was provided for the constitutional king of Hawaii in 1848, when the crown lands were set aside. While there were at first considerable differences between his rights in them and those of the English king in the duchy of Lancaster, these differences were largely removed within a few years, and the likeness in the later days of the Hawaiian monarchy was very close.

The Great Mahele.

The principles adopted by the board of land commissioners were simple, but their application to particular cases was naturally a difficult matter. The board, with occasional changes in membership, proceeded steadily with its work, but it became evident that its operations "would occupy a long series of years, and that the Commission would encounter much difficulty in settling the rights of the chiefs and konohikis." (Note 12.) The need of some more expeditious method of settlement soon forced attention, and the matter was finally taken up in the Privy Council, where it was fully discussed at the sessions of December 11, 14 and 18, 1847. (Note 13.)

Meanwhile the king, as the landlord from whom the tenants in chief held, had advanced a claim to a large part of the land of the islands,—that is, he believed himself to have rights under the second of the three classes of persons named in the principles adopted by the board,—and had worked out a division of the lands in the island of Oahu, between himself and the chiefs, on the basis of his claim. "The chiefs do not greatly object to this, but they ask: [illegible] the government a third interest in lands left to us? The King replies Yes, and the government has a third interest in his." (Note 14.) It will be seen that this was meant as an adjustment of rights within the second of the three classes, assigning to each konohiki, superior or inferior, his proper share, after which the government (the first class) would take one-third from each konohiki, and the tenants (the third class) would presumably be entitled to convert their leaseholds into fee simple estates of one-third area. There was considerable debate in the council as to the validity of the king's claim. Some believed that "the King as an individual and as the head of the nation should be regarded as one", that "the government portion of the lands should go into the hands of the King, from which he should select a part as his individual property, and set aside the remainder for the use and support of his government." Chief Justice Lee, however, after study of the question, gave it as his opinion that "the King and the government were one and the same in most things, but not in every thing. From the constitution it seemed clear that in property the King and government were two separate and distinct persons." (Note 15.)

After full discussion it was determined (December 18, 1847) to appoint a committee which should endeavor by negotiation to effect an equitable division of lands between the chiefs on the one hand and the government and the king on the other, this to be followed by a division of the second portion into state and crown lands. The right of the tenants to their third was recognized, but a general distribution to them was not attempted. Each tenant might receive an allotment upon application, which seems to have been made in only a few cases, most apparently preferring their existing leaseholds to the smaller holdings in fee simple. The committee's work was so quickly performed that on March 30, 1848, there was "presented a book of 225 pages consisting of the lands assigned to the King on the left and those to the chiefs on the right—also a division of the King's lands from those belonging to the Government." (Note 16.) This was the "Mahele Book," signed and sealed by the king on March 8, 1848. In it is contained an instrument setting aside the crown lands, translated into English as follows: "Know all men by these presents, that I, Kamehameha III, by the grace of God, King of these Hawaiian Islands, have given this day of my own free will and have made over and set apart forever to the chiefs and people the larger part of my royal land, for the use and benefit of the Hawaiian Government, therefore by this instrument I hereby retain (or reserve) for myself and for my heirs and successors forever, my lands inscribed at pages . . . . of this book; these lands are set apart for me and for my heirs and successors forever, as my own property exclusively." (Note 17.)

The action of the king and council was brought before the legislature at its next session, and on June 7, 1848, was passed an act confirming the division agreed on. The pertinent portions read as follows:

"Whereas, It hath pleased his most gracious Majesty Kamehameha III, the King, after reserving certain lands to himself as his own private property, to surrender and forever make over unto his chiefs and people the greater portion of his royal domain;

"And whereas, * * *

"Be it enacted by the House of Nobles and Representatives of the Hawaiian Islands in Legislative Council assembled,

"That expressing our deepest thanks to his Majesty for this noble and truly royal gift, we do hereby solemnly confirm this great act of our good King, and declare the following named lands, viz: * * * To be the private lands of his Majesty Kamehameha III, to have and to hold to himself, his heirs and successors forever; and such lands shall be regulated and disposed of according to his royal will and pleasure, subject only to the rights of tenants." (Note 18.)

Thus the Great Mahele (i. e., division) was completed, and the crown lands, as distinct from lands for the use and benefit of the government, were set apart.

Period from 1848 to 1864.

The next few years may be passed over briefly. From the time of the division until his death, Kamehameha III administered the crown lands through an agent, receiving the revenues, selling and leasing at pleasure. He died on December 15, 1854, and was succeeded on the throne by his nephew, Kamehameha IV. The late king's will, probated January 27, 1855, after providing for the payment of his debts and devising certain lands to his consort, Queen Kalama, in lieu of dower, left all his remaining estate to his nephew, the new king. The administration of the crown lands was continued as before. They were treated in all respects as private lands; the queen consort (Emma) joined with the king in deeds to individuals whenever it would have been necessary for a private citizen to do so in order to bar right of dower; portions were sold and the remainder was heavily burdened with mortgages. (Note 19.)

Litigation Over the Estate of Kamehameha IV.

Kamehameha IV died intestate on November 30, 1863, and the crown passed to his brother, Kamehameha V. A dispute at once arose as to the distribution of his estate and particularly as to the disposition to be made of the crown lands. The widow, Queen Emma, laid claim to one-half, with dower in the other half, on the theory that the crown lands were his private property and subject to the ordinary rules of inheritance. If this assumption were correct, her right to receive one-half could not be disputed, for under Hawaiian law an equal division of the estate must be made between the late king's widow and his father. (Note 20.) As to her dower right in the remainder the case was not so clear. Her entire claim was opposed by the attorney-general, who held that the crown lands constituted "a royal domain annexed to the Hawaiian crown," that they descended from each holder to his successor on the throne, and that they were not subject to the right of dower.

It seems probable that up to this time no very careful consideration had been given to the exact legal status of the crown lands. Since they had first been set apart, the reigning sovereign had always received the income from them, as he would have done whether they were his private property or "a royal domain annexed to the crown." On the one occasion when a new king had acceded, he had entered into possession, by law, of whatever property was attached to the crown, and, by the will of his predecessor, of the latter's private property, so that no question had arisen as to which category included the crown lands,—they all passed into the same hands anyway, and there was nothing to draw particular attention to the matter. It is easy to find contemporary statements that seem to imply that the lands set apart for Kamehameha III in 1848 were ceded to him as absolutely as those assigned to the chiefs were to them, but such remarks were not made as technical legal statements, and too much must not be deduced from them. On the other hand it seems to have been pretty commonly assumed, without any great amount of reflection, that the crown lands would go with the crown. Once the issue was actually made, it was not hard for reasonable men to take diametrically opposite views and to make a plausible argument on each side. The character of Kamehameha V, of Queen Emma and of the attorney-general are sufficient evidence that the litigation was an honest attempt to settle an honest difference of opinion.

The case was argued at the April term, and the decision announced by Justice George H. Robertson on May 27, 1864 (Note 21). "In our opinion, while it was clearly the intention of Kamehameha III to protect the lands which he reserved to himself out of the domain which had been acquired by his family through the prowess and skill of his father, the conqueror, from the danger of being treated as public domain or Government property, it was also his intention to provide that those lands should descend to his heirs and successors, the future wearers of the crown which the conqueror had won; and we understand the act of the 7th June, 1848, as having secured both these objects. Under that act the lands descend in fee, the inheritance being limited however to the successors to the throne, and each successive possessor may regulate and dispose of the same according to his will and pleasure, as private property, in like manner as was done by Kamehameha III. In our opinion the fifth clause of the will of Kamehameha III was not necessary to pass the reserved lands to Kamehameha IV, any more than the first clause was necessary to pass to him the crown. He was entitled to inherit those lands by force of the act of 7th June, 1848, when he succeeded to the crown, by virtue of the public proclamation made by his predecessor with the consent of the House of Nobles. (Note 22.)

against the tenant, but the tenant had none against his lord. If his burdens proved too heavy his only redress, short of rebellion, was to surrender his fief and seek another lord. Nor had he any security of tenure even while he rendered his dues punctually. Land was occasionally reallotted, and at the death of a king a general redistribution by his successor was the almost invariable rule. Up to the time of Kamehameha I fiefs in general had not become hereditary. It is true that certain lands had remained for generations in the same families. (Note 1.) This may have been more or less accidental, and have implied no acknowledgment of any actual right, but in the course of time it would naturally result in the claim of such a right, and perhaps lead eventually to a general recognition of the principle of inheritance. It is clear, however, that no such custom existed as to most of the lands of the kingdom, and that the transfer of a fief from one family to another was no matter for either surprise or just grievance.

Evolution of Individual Rights in Land.

In the last years of the reign of Kamehameha I began that revolution in the system of land tenure which ended, in little over a quarter of a century, with the complete disappearance of the feudal system and the establishment of full individual ownership. Kamehameha I, by adopting the principle of hereditary succession as the normal rule in grants of land, took an important step. (Note 2.) The tenant still had no actual right in his land, nor any absolute certainty that he could either retain it for himself during his lifetime or transmit it to his posterity on his death, but at least his expectation of both events became reasonable enough to offer him some encouragement to industry. (Note 3.) The Bill of Rights of Kamehameha III, promulgated in 1839, converted this expectation into a legal right, and its principles were adopted in the constitution granted in 1840. "Protection is hereby secured to the persons of all the people, together with their lands, their building lots, and all their property, while they conform to the laws of the kingdom, and nothing whatever shall be taken from any individual except by express provision of the laws." (Note 4.) At the same time it was declared: "Kamehameha I was the founder of the kingdom, and to him belonged all the land from one end of the Islands to the other, though it was not his own private property. It belonged to the chiefs and people in common, of whom Kamehameha I was the head, and had the management of the landed property. Wherefore, there was not formerly, and is not now, any person who could or can convey away the smallest portion of land without the consent of the one who had, or has the direction of the kingdom." (Note 5.)

After this time, as well as before, all land was the property of the king. But it was no longer subject to his arbitrary disposition. Henceforth neither the king nor any other landlord (konohiki) could remove a tenant or increase his rent except in accordance with law. No subject could yet obtain absolute ownership of land, but a legal interest, enforceable in the courts, could now be had, under lease. As a temporary expedient this served fairly well, but it could be only temporary; with Hawaii now entering the general current of civilization, with trade expanding, with American and European immigration increasing, it was necessary to provide as soon as possible for complete individual ownership. This was done by Chapter VII of the act to organize the executive departments, approved April 27, 1846. Article IV of this chapter (Note 6) directed the creation of a board of commissioners to quiet land titles. "His Majesty shall appoint through the minister of the interior, and upon consultation with the privy council, five commissioners, one of whom shall be the attorney general of this kingdom, to be a board for the investigation and final ascertainment or rejection of all claims of private individuals, whether natives or foreigners, to any landed property acquired anterior to the passage of this act; the awards of which board, unless appealed from as hereinafter allowed, shall be binding upon the minister of the interior and upon the applicant." There follow various provisions, including one authorizing appeal to the Supreme Court, and then the following: "The minister of the interior shall have power in concurrence with the privy council, and under the sanction of His Majesty, to issue to any lessee or tenant for life of lands so confirmed, being an Hawaiian subject, a patent in fee simple for the same, upon payment of a commutation to be agreed upon by His Majesty in privy council."

The first of the two sections just quoted provides for no alteration in the nature of existing titles, but only for the accurate determination of rights in land already existing, their legal basis being the Bill of Rights of 1839. Tenure at the will of the landlord had become tenure for life or for a term; rent, in produce or in labor, was no longer fixed at the discretion of the landlord, but by agreement of the parties or by law. It was for the board of commissioners to fix the boundaries of the lands in whose possession both landlords and tenants had thus been confirmed, and to determine under just what conditions they were held. It was to give nothing new to either landlord or tenant, but merely to establish definitely their respective rights.

But once the rights of the occupant in his land had been determined,—when, so to speak, the terms of his lease had been recorded,—the second of the two sections quoted would enable him to buy up the reversion at a price to be fixed by the king in council, and to obtain a patent in fee simple, something unknown to earlier Hawaiian law. Other provisions were made in this same act (Note 7), and in supplementary statutes passed within the year (Note 8), for the sale and lease of land, so that when the board should have completed its work, the law of real property in Hawaii would differ in no essential respects from that in England and the United States.

Principles Adopted by the Board of Land Commissioners.

In compliance with the statute, William Richards, John Ricord, J. Y. Kanehoa, John Ii and Z. Kaauwai were appointed commissioners, and commenced their labors by a careful investigation into the nature of old land tenures and the respective rights of all classes of persons making claim to shares in landed property. On August 20, 1846, as a result of their examination, they agreed on certain principles, which, on October 26, 1846, were adopted by the legislature as rules which should govern in the partition of the lands of the islands (Note 9). The board declared it to be "fully established that there are but three classes of persons having vested rights in the lands: First, the Government; second, the landlord; and third, the tenant." Considering the practically unlimited powers which the king had until recently enjoyed, and which he still possessed except as they had been restricted by law, it was concluded that "should the King allow to the landlord one-third, to the tenant one-third, and retain one-third himself, he, according to the uniform opinion of the witnesses, would injure no one unless himself." It is to be noted that the text uses *the King* and *the Government* interchangeably throughout. It is not Kauikeaouli Kamehameha, but the Hawaiian State, which has been found to be the rightful owner of an undivided third of the lands within the national boundaries. (Note 10.) Until a few years earlier the King was the State, and there could be no distinction between king's property and public property. Now, with the establishment of constitutional government, a national treasury as distinct from the king's private purse had been created. As the king was thereby relieved from the duty of defraying the expenses of the state, so must he surrender the income and the property which he had held as the state's representative, though like any other resident of the kingdom he might hold property of his own and dispose of it at pleasure. (Note 11.)

Royal Revenues.

The development of a system of governmental finance, independent of royal control, took place rapidly—almost instantaneously—in Hawaii, but was otherwise very similar to that in England. In the one case the process took years, and in the other, centuries; it is not the only instance in which the history of Hawaii is that of Europe in miniature, and in which the one may help to explain the other. In England, as elsewhere, the king was originally expected to "live on his own." He paid all the expenses of the government out of his private estates, feudal dues, and such other revenues as were from time to time granted to him by the representatives of the people, or assessed by him in some more or less informal manner. Any surplus remaining he disposed of for his own benefit. Sometimes, of course, he attended to his own benefit first and the business of government was conducted on what happened to be left. In the course of time new sources of revenue were opened, not granted to the crown, but freeing it from the obligation of defraying the cost of certain parts of the administration. Finally the king surrendered his hereditary revenues in return for an annual grant of money and relief from most of the expenses of government. This practice has been followed at the accession of each new monarch, and each one has been freed from the payment of certain charges which had been borne by his predecessors, until the civil list, as it is still called, has become practically the "pay and allowances" of the sovereign. Curiously enough, the surrender of the hereditary revenues in return for an allowance of less value by some millions of dollars, is occasionally spoken of as if it were a munificent gift bestowed by the king upon the British people; his relief from the obligation of meeting the expenses of the government—some hundreds of millions—is forgotten.

In both England and Hawaii, then, the national revenues were sooner or later taken out of the hands of the king, a grant of money from the public treasury being given to him at the same time. In both countries the king could possess property of his own. In both countries, too, there was a third class of property which remained at the disposal of the king,—private in the sense that he had the full enjoyment of its proceeds, but public in that he held it because of his position as head of the state, and only while occupying that position. In England the revenues of the duchy of Lancaster are paid over to the king throughout his reign; he has the free use of them, whatever they may amount to, but on his death or deposition they pass to his successor in and approved on July 21, 1882, an act authorizing the conveyance to him of the ahupuaa of Wailuku, a part of the crown lands in the island of Maui, "estimated to contain twenty-four thousand acres or thereabouts," on condition of his relinquishing all claims to the remainder of the crown lands. (Note 31.)

CROWN LANDS MERGED WITH THE PUBLIC DOMAIN

Liliuokalani, the last monarch of Hawaii, was dethroned on January 17, 1893, and a provisional government was established, which was succeeded on July 4, 1894, by a republic of the familiar American form. With the enforced abdication of the queen, the lands "vested in the King for the purpose of maintaining the royal state and dignity" passed to the new "heir and successor of the Hawaiian Crown," and the provisional and republican governments successively took them in charge. To remove any doubts which might possibly exist, the constitution of the republic expressly provided: "That portion of the public domain heretofore known as crown land is hereby declared to have been heretofore, and now to be, the property of the Hawaiian Government, and to be now free and clear from any trust of or concerning the same, and from all claim of any nature whatsoever upon the rents, issues, and profits thereof." (Note 32.) After the annexation of Hawaii to the United States in 1898, the organic act, passed by Congress in 1900 to establish a government for the territory, repeated the same provision. (Note 33.) Title was no longer in the Hawaiian government, however, but in that of the United States, the treaty of annexation providing that "the Republic of Hawaii also cedes and hereby transfers to the United States the absolute fee and ownership of all public, government, or crown lands, * * * together with every right and appurtenance thereunto appertaining." (Note 34.) The treaty was not ratified as such, but the joint resolution providing for annexation (approved July 7, 1898), adopted its terms. (Note 35.)

CLAIM OF THE FORMER QUEEN.

The loss of her income from the crown lands, amounting to about $50,000 a year, was naturally resented by the former queen, but during the existence of the republic of Hawaii it was evidently impossible for her to recover anything through the courts, whose existence was derived from the same instrument (the constitution of 1894) which asserted the crown lands to be free "from any trust" and "from all claim of any nature whatsoever." Nor does it seem to have occurred to her or to her advisers, until

a long time had passed, that her legal position had perhaps been altered since annexation. After several years, however, suit was brought in the United States Court of Claims, alleging the right of the ex-queen to the income during her life, and the last act in the history of the crown lands took place. The case deserves more than a hasty examination.

Aside from the merits of the ex-queen's claim there was a preliminary legal question involved. In view of the provisions of the Hawaiian constitution of 1894, of the annexation resolution and of the organic act, it would seem on the face of it that there was nothing upon which an action could be based. The attorney for the claimant, Mr. Sidney Ballou, conceded of course that the courts of the republic were unable under the terms of the constitution to take cognizance of the case, but advanced the theory that the equitable right of the ex-queen was merely suspended, and not destroyed; that it still existed, although for the time being no court had jurisdiction. If the right remained at the time of annexation, then it was protected by the fifth amendment to the constitution (deprivation of property without due process of law), and the clause in the organic act could not destroy it. As to the status of the crown lands prior to 1893, the claimant took the position that they had always been the private lands of the king and in no sense national property. Great emphasis was laid on the words of Justice Robertson, who, in the decision of the case of the estate of Kamehameha IV, said: "The records of the discussions in Council show plainly his Majesty's anxious desire to free his lands from the burden of being considered public domain, and as such, subjected to the danger of confiscation in the event of his islands being seized by any foreign power." (Note 36.) And again, "it was clearly the intention of Kamehameha III to protect the lands * * * from the danger of being treated as public domain." Of course, if the crown lands—or a life estate in them—were the private property of Liliuokalani, the action of the provisional government amounted to confiscation.

The decision of the court was delivered by Judge Fenton W. Booth, on May 16, 1910. (Note 37.) He first discussed the decision of 1864. "Although the court sustained the right of dower in the widow of the King, it is clear from the opinion that the crown lands were treated not as the King's private property in the strict sense of the word. While possessing certain attributes pertaining to fee-simple estates, such as unrestricted power of alienation and incumbrance, there were likewise enough conditions surrounding the tenure to clearly characterize it as one pertaining to the support and maintenance of the Crown, as distinct

* * * We are clearly of opinion also that her Majesty Queen Emma is lawfully entitled to dower in the reserved lands, except so far as she may have barred her right therein by her own act and deed. There is nothing in the Act of 7th June, 1848, which can be understood as taking away the Queen's right of dower in the lands therein named; nor is there any law of this Kingdom which renders the matrimonial rights of the wife of the King any less than or any different from those of the wife of any private gentleman. Such was unquestionably the understanding of both Kamehameha III and his successor as to dower in these lands, which are to be dealt with in all respects as private inheritable property, subject only to the special legislative restriction on the manner of their descent."

To sum up, then, it had been established that the reigning sovereign might enjoy the revenues of the crown lands during his lifetime, and might also sell or mortgage any part or all of them, the proceeds becoming his private personal property; that on his death all such lands still held should pass to his successor in office, subject to the same right of dower as private lands.

LEGISLATION OF 1864-1866.

For the first time the exact legal status of the crown lands was now clear and the serious condition of affairs was brought to public attention. The new king was, indeed, confirmed in his right to the benefit of them, but they came to him burdened with mortgages placed on them by his predecessors and their value further diminished, during Queen Emma's life-time, by her right of dower. His income from them promised to be small. But this was not the worst of it. The former kings, though they had mortgaged a great deal, had not sold much, but there was nothing to prevent a spendthrift monarch from disposing of every acre to the highest bidder, and leaving nothing to those who came after. Of course this had been known from the beginning, but there had never been any imminent danger and nothing had been done. Now, however, the decision of the Supreme Court moved the legislature to provide not only for the needs of the reigning king but also for the protection of his successors.

First, the king was relieved from the burden of Queen Emma's dower. By an act passed December 3, 1864, a grant of six thousand dollars a year from the national treasury was made to her, in lieu of dower, the preamble reciting that "Whereas, it is not advantageous to the Kingdom that the Royal Domain should be diminished." (Note 23.) This was in effect an increase of the civil list during the lifetime of Queen Emma.

Next, on January 3, 1865, was approved an act of such importance that it must be quoted in full. (Note 24.)

Whereas by the act entitled "An Act relating to the lands of His Majesty the King and of the Government," passed on the 7th day of June, A. D. 1848, it appears by the preamble that His Most Gracious Majesty Kamehameha III, the King, after reserving certain lands to himself as his own private property, to surrender and make over unto his chiefs and people the greater portion of his royal domain; and whereas by the same act it was declared that certain lands therein named shall be the private lands of Kamehameha III, to have and to hold to himself, his heirs, and successors forever, and that the said lands shall be regulated and disposed of according to his royal will and pleasure, subject only to the rights of tenants; and whereas by the proper construction of the said statute the words 'heirs and successors' mean the heirs and successors to the royal office, and whereas the history of said land shows that they were vested in the King for the purpose of maintaining the royal state and dignity, and it is therefore disadvantageous to the public interest that the said lands should be alienated or the said royal domain diminished; and whereas, further, during the two late reigns the said royal domain has been greatly diminished and is now charged with mortgages to secure considerable sums of money; Now, therefore,

Be it enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:

Section 1. The Minister of Finance is hereby authorized to issue exchequer bonds, with coupons attached, to the amount of not more than $30,000, said bonds to bear interest at not more than 12 per cent per annum, payable half yearly, and to be redeemable at such times within the next twenty years as the said minister of finance shall deem expedient, which said bonds shall be issued whenever necessary to the commissioners of crown lands, hereinafter provided for, to be used to extinguish those mortgages which may remain unsatisfied after the administrator of his late Majesty's estate has exhausted all the estate belonging to his late Majesty, in a private capacity, which the said administrator may be legally entitled to use for the payment of the debts of the estate.

Sec. 2. Full authority is hereby given to such commissioners, jointly with the minister of finance, to negotiate for the redemption of the mortgages in the preceding section referred to, and dispose of the said exchequer bonds for that purpose in such manner as may be most advantageous to the public interest.

Sec. 3. It is further enacted that so many of the lands which by the statute enacted on the 7th of June, 1848, are declared to be the private lands of His Majesty Kamehameha III, to have and to hold to himself, his heirs, and successors forever, as may be at this time unalienated, and have descended to His Majesty Kamehameha V, shall be henceforth inalienable, and shall descend to the heirs and successors of the Hawaiian Crown forever; and it is further enacted that it shall not be lawful hereafter to execute any lease or leases of the said lands for any term of years to exceed thirty.

Sec. 4. The commissioners of the crown lands shall have full power and authority to make good and valid leases of the said lands for any number of years not exceeding thirty, but in no case shall it be lawful to collect the rents on the same for more than one year in advance, or to receive anything in the nature of a bonus for signing the

from the person of the Sovereign. They belonged to the office and not to the individual." Referring to subsequent legislation, he said: "The act of 1865 to become effective under the Hawaiian constitution required the approval of the King. On January 3, 1865, Kamehameha V approved the statute which expressly divested the King of whatever legal title or possession he theretofore had in or to the crown lands. The Hawaiian Government in 1865 by its own legislation determined what the court is now asked to determine." And the decision of the court was that "the reservations made were to the crown and not the King as an individual. The crown lands were the resourceful methods of income to sustain, in part at least, the dignity of the office to which they were inseparably attached. When the office ceased to exist they became as other lands of the Sovereignty and passed to the defendants as part and parcel of the public domain."

The case was thus decided on its merits. Liliuokalani had never been the owner of the crown lands, and so had lost nothing through the provisions of the constitution of 1894 and of the organic act. The court remarked: "We have not entered into a discussion of the defenses predicated upon the above provisions of law, believing the case disposed of before we reached them. It is, however, worthy of note that the organic act of 1900 puts an end to any trust—if the same possibly existed." This last statement may be doubted. If Liliuokalani ever had any private property right in the lands, and if it were not confiscated and destroyed by the constitution of the republic, then an act of Congress could not deprive her of it; that would clearly be a taking of property without due process of law, as argued by the claimant. In view of the grounds of the decision, however, the point is of no importance. The court held that ownership had been in the government under the monarchy as well as under the republic, and though it needed to go no further, it might well have decided that the constitution of 1894 destroyed (not suspended) any rights that previously existed, for the claimant's theory, though ingenious, and backed up by elaborate argument, seems without foundation.

The soundness of the decision can hardly be doubted; in fact, probably the claimant and her advisers never felt sanguine, but thought it might be worth while to take a chance. One wonders just where their arguments would lead. On their theory there was an equitable life estate in the reigning sovereign which could not be taken from her by loss of the crown through change of government. If the monarchy had been continued after Liliuokalani's deposition, instead of being superseded by the republic, would the revenues of the crown lands have continued to be paid

to the ex-queen? No one could have seriously entertained such an idea. They would of course have accrued to the new sovereign, "the heir and successor to the royal office," the Princess Kaiulani. If the same rule did not apply under the actual circumstances, it could only be because Liliuokalani was succeeded by a republican government instead of a constitutional monarch. The logic is obscure. Assuming, however, that she, as the only queen there was, continued to receive the income during her life, what was to become of it after her death? Would it go to her personal heirs? Or to the Hawaiian government? Certainly not the former, for they are not "heirs and successors to the royal office." As to the latter, if it ever succeeded "to the royal office" it was on the deposition of Liliuokalani and not on her death.

There is, indeed, only one thing which lends a little plausibility to the claim; that is the utterance of Justice Robertson, already quoted. Certainly it seems very much to the point: "It was clearly the intention of Kamehameha III to protect the lands * * * from the danger of being treated as public domain." This is as given in the claimant's argument, but the quotation is not complete, for these words follow: "It was also his intention to provide that these lands should descend to his heirs and successors, the future wearers of the crown which the conqueror had won." The Court of Claims says that "this statement" (as imperfectly quoted) "has been seized upon and assiduously emphasized by the claimant. It is not in harmony with the detailed history given by the court in its opinion." Going back to the record of the discussion in the Privy Council, mentioned by Justice Robertson, we find that in the course of the debate, December 18, 1847, the King asked: "If a foreign power should take the Islands, what lands would they respect? Would they take possession of his lands?" Mr. Lee, the Chief Justice, "gave it as his opinion, that except in the case of resistance to, and conquest by, any foreign power the King's rights to his private lands would be respected." The King asked: "During the French Revolution were not the King's lands confiscated?" To which Mr. Wyllie, the Minister of Foreign Affairs, replied: "They were confiscated, but that was by the King's own rebellious subjects." (Note 38.)

Now this does not necessarily show that the King believed the proposed segregation of lands would insure his retention of those allotted to him, in case of his deposition, but it does at least show that he had some curiosity on the point. Again, it will not do to found any theories on the words in his speech at the opening of the legislature in 1848: "I have also reserved to myself a portion of lands which are to be retained as my private property,

said lease, and all the rents, profits, and emoluments derived from the said lands, after deducting the necessary and proper expenses of managing the same, shall be for the use and benefit of the reigning sovereign, and payable by the said commissioners to the order of the King, except when the King shall be a minor, and then they shall be invested for the benefit of the said minor King, as the legislature may direct, until the said minor shall have arrived at the age of Majority, and excepting further as in the succeeding section set forth.

Sec. 5. There shall be set apart by the said commissioners one-fourth part of the annual revenue of the said estate, which shall be paid into the public treasury and be devoted first to the payment of the interest on the exchequer bonds herein above provided for, and so much of the said fourth part of the said income as may be in excess of the said interest on the said bonds shall be applied to the payment of the principal of the said bonds until the entire sum by this act authorized to be issued shall be fully paid.

Sec. 6. The board shall consist of three persons, to be appointed by His Majesty the King, two of whom shall be appointed from among the members of his cabinet council, and serve without any remuneration, and the other shall act as land agent, and shall be paid out of the revenues of the said land such sum as may be agreed by His Majesty the King.

As regards Kamehameha V, this law gave him the assistance of the public credit in extinguishing the debt on the crown lands, which might or might not be of any practical benefit to him. The important thing is that henceforth these lands were inalienable, so that no king might sell them and take all their value for himself, to the exclusion of his successors. Bearing in mind that His Most Gracious Majesty King Kalakaua ascended the throne only nine years later, it will be realized that this law came not much too soon.

Under the act of January 3, 1865, one-quarter of the income of the crown lands was to be turned into the treasury to pay the interest on the government's loan and to extinguish the principal. Kamehameha V, however, did not limit himself to this, but paid over nearly the entire revenue of the domain. Far from seeking to get as much as he could for himself, his ambition appears to have been to transmit the crown lands to his successor free from all indebtedness. His generosity in this respect was emulated by the legislature. It was decided to free the crown lands, once for all, from all burdens, and by a resolution approved July 6, 1866, the government assumed liability for both the principal and the interest of the bonds. (Note 25.) Bonds to the total of $27,000 were issued to extinguish the mortgages. (Note 26.) Thenceforth until the end of the monarchy each king enjoyed the full revenue of the royal lands.

PERIOD FROM 1866 TO 1893.

For nearly thirty years there is nothing of consequence to relate, except one curious episode to be mentioned later. The principal of the trust fund represented by the crown lands was now effectually protected, and it was only the interest that Kalakaua could squander, along with his regular subsidy from the civil list and his large but uncertain income from bribes and frauds in the custom-house. (Note 27.) The area of the lands in the hands of the commissioners was slightly reduced, the courts holding that certain tracts heretofore administered by them had been the private property of Kamehameha IV, and therefore passed to his heirs. (Note 28.) On one of these tracts the government had paid off a mortgage, under the terms of the act of July 6, 1866; the premises were accordingly charged with the amount, on prayer of the Minister of Finance. (Note 29.)

On September 20, 1880, Princess Ruth, a descendant of Kamehameha I, conveyed to Claus Spreckels, for a consideration of $10,000, "all my estate, right, title and interest both at law and in equity of, in and to" the Hawaiian crown lands. (Note 30.) As the princess had no estate, right, title or interest of any description in the crown lands, either at law or in equity, this was a singular proceeding. It is possible that she imagined herself to have some sort of vague rights in the property. She was a princess of the house of Kamehameha which had once owned every foot of land in the kingdom, and she may well have found it hard to grasp the idea that all of the royal lands could pass to another family, leaving none for the descendants of the conqueror. Acts and decisions of new-fangled things like legislatures and courts could not mean much to her. Anyway, she would have no objection to taking the money which Mr. Spreckels pressed upon her. Spreckels, of course, had no illusions as to her rights, but his part in the transaction is easily understood. He was hand in glove with the king and many almost equally unscrupulous politicians, and is said to have boasted, not long after this, that he had the legislature in his pocket. His friends might help him to make something out of this deed of Princess Ruth's, and even if they could not, its possible blackmail value was considerable. He was willing to invest ten thousand dollars in an enterprise that appeared (and proved) to offer considerable profit with no great risk of loss. An incorruptible Supreme Court stood in the way of his gaining anything through legal proceedings, but his capacity to make trouble was so evident that the cabinet felt it expedient to buy him off. Accordingly there was introduced in the legislature, passed on July 20th,

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and to descend to my heirs forever." (Note 39.) If we are to insist on the narrowest literal meaning of the words "private property," we may not ignore the omission of the words "and successors"; we should have to take this as an assertion that the lands would descend to his personal heirs, which, according to the Supreme Court's decision, was not the case. Taking everything into consideration, however, it is conceivable that Kamehameha III did believe the crown lands to be his own private property in the full sense of the words. If so, he was evidently mistaken as to the legal effect of the act of the legislature approving the partition. We have not only the Supreme Court's decision on the other side, but also the declarations of the legislature in 1865 that "the words *heirs and successors* mean the heirs and successors to the royal office," and that "the history of said lands shows that they were vested in the King for the purpose of maintaining the royal state and dignity." As this act was approved by Kamehameha V, it may be taken, in the absence of evidence to the contrary, as expressing his views as well as those of the nobles and representatives.

Extent and Value of the Lands.

The crown lands thus finally merged in the public domain had a total area of 971,463 acres, of which 642,852 were in the island of Hawaii, 69,121 in Maui, 20,892 in Molokai, 17,369 in Lanai, 66,593 in Oahu and 154,636 in Kauai. The value was estimated at $2,314,352. (Note 40.) This included agricultural land of all descriptions and also considerable city tracts. Some has now been alienated and the identity of the rest has of course been completely lost, having been dealt with for thirty years without distinction from other public lands.

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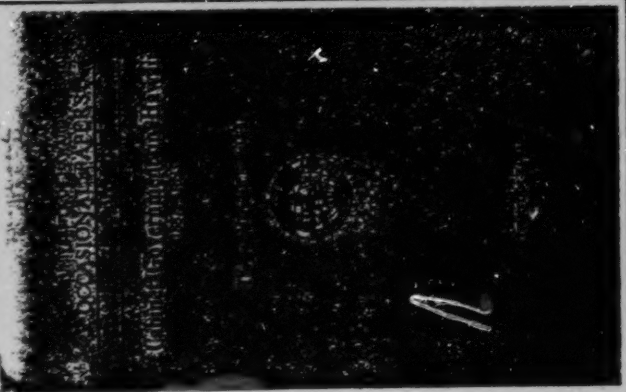
Report of the Commissioners of Crown Lands. 1894.
Fornander: An Account of the Polynesian Race.
Blackman: The Making of Hawaii.

NOTES.

1. Fornander, II, p. [illegible].
2. Blackman, p. [illegible].
3. 2 Haw. R. [illegible], for some account of the [illegible] as to inheritance in this transition period.
4. Lydecker, p. [illegible].
5. Lydecker, pp. 9-10.
6. Laws, I, 107.
7. E. g., Laws, I, [illegible].
8. E. g., Laws, II, [illegible].
9. Laws, II, 81. [illegible]
10. 7 Haw. 421. At p. [illegible]: "[illegible] whole control of these [illegible] shows that the land tenures of this Kingdom were to be settled on the basis that the King—meaning the State or Government—had one third of any given land held by a landlord. * * * The terms [illegible] and Government are, as we see, used interchangeably. They mean the [illegible] in each case."
11. Lydecker, p. 1[illegible]. Constitution of 18[illegible]. "He shall also retain his own private lands."
12. 2 Haw. R. 7[illegible].
13. P. C. Records of [illegible] date.
14. P. C. Records, Dec. 11, 18[illegible].
15. P. C. Records, Dec. 1[illegible], 18[illegible].
16. P. C. Records, [illegible] 18[illegible].
17. Quoted, 2 Haw. R. 7[illegible] and [illegible] Ct. Cls. [illegible].
18. Laws, 18[illegible], p. [illegible]. Quoted, 2 Haw. R. 717 and [illegible] Ct. Cls. [illegible]-[illegible].
19. 2 Haw. R. 7[illegible]-[illegible].
20. The father of Kamehameha IV and Kamehameha V was not of royal blood. Their mother was a [illegible] of Kamehameha III.
21. 2 Haw. R. 7[illegible]-7[illegible].
22. The Hawaiian monarchy was not at this time hereditary. Art. [illegible], constitution of 18[illegible], provides that "the successor shall be the person whom the King and the House of Nobles shall appoint." Lydecker, p. [illegible].
23. Laws, 18[illegible]-[illegible], pp. 7[illegible]-7[illegible].
24. Laws, 18[illegible]-[illegible], p. [illegible]. Quoted, [illegible] Ct. Cls. [illegible]-[illegible]. The obvious [illegible] in the [illegible] occurs in the original.
25. Laws, 18[illegible]-[illegible], p. 1[illegible]. Quoted, [illegible] Ct. Cls. [illegible]-[illegible].
26. [illegible] Haw. R. [illegible].
27. The most [illegible] instance was the King's [illegible] of a [illegible] of $[illegible] for the control of the opium monopoly. [illegible] [illegible]

committing a wrong"; and His Majesty was obliged to disgorge. 7 Haw. R. [illegible].

28. 6 Haw. R. [illegible]. 6 Haw. R. [illegible].
29. 6 Haw. R. [illegible].
30. 6 Haw. R. [illegible].
31. Laws, 18[illegible], [illegible] 11. Quoted, [illegible] Ct. Cls. [illegible]-[illegible]. Mr. [illegible], the Attorney-General, introduced the bill, which is sufficient evidence of good faith.
32. Lydecker, p. [illegible].
33. [illegible] U. S. Stat. [illegible].
34. [illegible] Ct. Cls. [illegible].
35. [illegible] U. S. Stat. L. [illegible]. Quoted, [illegible] Ct. Cls. [illegible]-[illegible].
36. [illegible] Haw. R. [illegible].
37. [illegible] Ct. Cls. [illegible].
38. P. C. Records, Dec. 1[illegible], 18[illegible].
39. Lydecker, p. [illegible].
40. Rep. of Commrs. of Crown Lands, 18[illegible], p. [illegible].



DEPARTMENT OF PLANNING
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GEORGE R. ARIYOSHI
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December 21, 1982

Mrs. Kina'u Boyd Kamali'i
Chairperson
U.S. Native Hawaiians Study Commission
500 University Avenue, Apt. 1601
Honolulu, Hawaii 96826

Dear Kina'u:

This is in response to your letter of December 20, asking me to review part of the Native Hawaiians Study Commission's "Draft Report of Findings," dated September 23, 1982.

I have already completed such a review at the request of the Office of Hawaiian Affairs. I am sure that they would not object to my sharing my comments with you, and I have accordingly enclosed a copy for your use.

You may also be interested in our Statistical Report 83, "Estimates of the Hawaiian Population of Hawaii," issued August 27, 1971. A copy is enclosed.

Please call if you have any further questions.

Sincerely,

Bob

Robert C. Schmitt
State Statistician

RCS/hn

Enc.

November 26, 1982

Mr. T. C. Yim, Administrator
Office of Hawaiian Affairs
567 So. King Street, Suite 100
Honolulu, Hawaii 96813

Dear Mr. Yim:

As requested by Kathleen Miyashiro of your staff, I have reviewed the Native Hawaiians Study Commission's "Draft Report of Findings," dated September 23, 1982. Although I concentrated primarily on the statistical and demographic aspects of the report, I also read the historical and legal parts, where I was able to add some minor comments.

The following points should be noted:

On page 21, several typographical errors made in the source for table 9 have unfortunately been repeated. The population of the Kingdom in 1890 was 89,990, not 80,990. Maui had 16,400 inhabitants (not 10,400) in 1860, 15,970 (not 16,970) in 1884, and 17,357 (not 17,557) in 1890.

I suspect that the actual source for the population estimates for race by islands in table 11, page 26, is the Hawaii Health Surveillance Program rather than the U.S. Department of Labor.

It should be noted that the literacy estimates for 1890 in table 12, page 27, are not comparable to those for 1896 and later years. The 1890 data, unlike those for later years, did not take account of literacy in Asian languages, thus understating the rates shown for Chinese and Japanese.

It should further be noted that the income data for Caucasians (and also for all races combined) in table 20, page 38, are distorted by the inclusion of disproportionate numbers of military personnel. Restricting the data to civilians greatly changes the rankings by race.

The source for table 21, page 39, on poverty, is given as the Hawaii Health Surveillance Program, but more likely is the 1975 OEO Census Update Survey.

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Mr. T. C. Yim, Administrator
Page 2
November 26, 1982

Table 22, page 46, presents data on welfare recipiency in 1977, but with rates based on ethnic data from the 1979 Hawaii Health Surveillance Program. For better comparability, 1977 data from the latter survey should have been used as a base.

The arrest rates by race in tables 23 and 24, pages 42 and 43, are questionable, chiefly because the ethnic definitions used in the numerators seem to differ significantly from those used in the denominators. This problem occurs throughout the study, affecting both trend comparisons and cross-sectional data. Although the text mentions the widely differing treatment of Part Hawaiians and other persons of mixed race from census to census and in studies by State and Federal governments, it in practice ignores the complications and distortions thereby produced in ethnic data. In table 23, for example, the arrest statistics for Hawaiians and Part Hawaiians appear to include all persons with any Hawaiian blood, while the census data used as a base exclude approximately half of the Part Hawaiians found in State-level surveys. The inevitable result is a serious exaggeration of Hawaiian crime rates.

Table 28, page 47, presents data by race on infant mortality in 1980. It would have been better to use data for a three- or five-year period, because 1980 appears to have been an atypical year.

Statements on pages 43 and 60, attributed to Irene Taeuber, refer to high Hawaiian fertility in the 19th century, but more recent research has indicated widespread and prolonged low birth rates due to venereal disease.

On page 67, the text asserts that the President of the United States appointed both the Governor and "Secretary of the Treasury" of the Territory. I think that the authors meant to refer to the Secretary (period), not "Secretary of the Treasury".

On page 83, the text states that the College of Mechanical Arts "became the University of Hawaii in 1912." In reality, it became the College of Hawaii in 1911 and the University of Hawaii in 1920.

The rental vacancy rate shown for Hawaii in table 45, page 93, is very misleading, since all vacant rental units held for transient occupancy are included in the rate.

The use of "Hawaiian/Part Hawaiian" in tables 30, 31, 33, and others reporting 1980 census data is incorrect. The 1980 census term is simply "Hawaiian," and it is defined (as noted earlier) to exclude some (perhaps most) Part Hawaiians, such as those with non-Hawaiian mothers or identifying themselves primarily with their non-Hawaiian forebears.

Mr. T. C. Yim, Administrator
Page 3
November 26, 1982

On page 171, the 1853 smallpox epidemic is misdated 1873. This error has resulted in an incorrect conclusion as to why Hawaiians failed to register their kuleana claims.

On page 182 the authors state that the 1881 smallpox epidemic "left thousands of Hawaiians dead." The official records, however, report only 282 deaths, Hawaiian and non-Hawaiian combined.

On page 210, the text refers to "Hawaii's first Territorial Legislature in 1898." The first one actually convened in 1901.

On page 211, the text contends that the State Constitution was approved in the general election of November 1960. It was actually approved on November 7, 1950.

Some names are misspelled: "Tauber" for Taeuber (p. 23), "Richard Wyllie" for Robert C. Wyllie (p. 1[illegible]), "Fisk" for Fish (p. 178), "[illegible]" for [illegible] (p. 1[illegible]), and "[illegible]" for [illegible] (p. [illegible]). The source on table 20, page 49, refers to the Hawaii [illegible]. Finally, on page 3, I was startled to find myself relegated to an "former Hawaii State Statistician."

Notwithstanding these errors, the demographic, statistical, and historical aspects of the study have been handled reasonably well, reflecting a satisfactory degree of competence and objectivity.

Please do not hesitate to call if you require any clarification of the comments I have made.

Sincerely,

Robert C. Schmitt
State Statistician

State of Hawaii
Department of Planning and Economic Development
P. O. Box 2359
Honolulu, Hawaii 96804

Statistical Report 83

August 27, 1971

ESTIMATES OF THE HAWAIIAN POPULATION OF HAWAII*

This report presents statistics on the number of Hawaii residents who have Hawaiian blood. It has been compiled in an effort to answer numerous queries addressed to State agencies regarding the "pure" and part Hawaiian population.

Official census statistics no longer provide accurate information on this matter. A query on race has appeared in every official census conducted in Hawaii, from the first all-island count in 1849 to the most recent in 1970. Many authorities have questioned the accuracy of these data, however, particularly for the more recent enumerations. It has long been suspected that some part Hawaiians tend to forget their non-Hawaiian ancestry in replying to census queries and "pass" as pure Hawaiians. There is also a strong possibility, largely disregarded in earlier discussions, that other part Hawaiians fail to mention their Hawaiian blood and thus merge statistically with a non-Hawaiian group.

The 1970 decennial census exacerbated these problems. For the first time in any official census of the Islands, no category was provided for part Hawaiians. Self-classification of race was requested. Persons with mixed origins who asked how they should answer this question (many did not ask) were told to mark the race of their father, or, if he was of mixed blood as well, to use the race of their father's father. One effect of this new procedure was to add many part Hawaiians to the "Hawaiian" category. Another effect was to swell the "white" and "Chinese" totals with part Hawaiians, inasmuch as many part Hawaiians have Caucasian or Chinese fathers. The 1970 census data on race are thus not comparable to earlier enumerations, when separate Hawaiian and part Hawaiian categories existed. (It should be noted that 1970 tabulations released to date have combined the Hawaiian, Korean, and miscellaneous groups into a single "all other" category numbering 98,441, or 12.8 percent of the population; later reports will present a separate "Hawaiian" total, based on the new definitions.1/)

There is little question that the number of pure Hawaiians has sharply declined during the 193-year period since Captain Cook's first visit, while the part Hawaiian population has increased at a rapid rate. It is now thought that approximately 250,000 Polynesians lived in the Hawaiian Islands when the first Westerners arrived in 1778.2/ War, infanticide, disease, reduced fertility, and out-migration contributed to their early decline, with gonorrhea, syphilis and recurring epidemics as perhaps the most important factors. Hawaiian depopulation has continued at an almost constant rate since the 18th century, averaging 1.6 percent a year between 1778 and 1823, 2.2

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* Revised and updated from an article by Robert C. Schmitt, "How Many Hawaiians?", published in The Journal of the Polynesian Society, Vol. 76, No. 4, December 1967, pp. 467-475.

-2-

percent annually from 1823 to 1853, 1.9 percent from 1853 to 1878, 1.6 percent between 1878 and 1910, 2.0 percent from 1910 to 1940, 1.6 percent in 1940-1950, and 0.8 percent in 1950-1960. The part Hawaiians meanwhile recorded steady gains, with annual growth rates of 5.1 percent in 1853-1878, 4.1 percent in 1878-1910, 4.7 percent in 1910-1940, 4.0 percent in 1940-1950, and 2.1 percent in 1950-1960. By April 1, 1960, according to alternate census tabulations, there were either 10,502 or 11,294 pure Hawaiians and either 91,109 or 91,597 part Hawaiians in the State.3/ Totals for selected years are reported in table 1.4/

The Hawaiian decline and part Hawaiian rise were relative as well as absolute. Americans, Europeans and Asians migrated to Hawaii in great numbers during the 19th and 20th centuries and soon overtook the native population. Persons of non-Hawaiian blood, less than 3 percent of the total population in 1853, passed the 50-percent mark around 1887 and reached an all-time high of 86.3 percent in 1930. Pure Hawaiians, who accounted for 100 percent of the population of the Island chain on contact, fell to 49.7 percent in the 1884 census and 1.6 percent by 1960. Part Hawaiians constituted 1.3 percent of the population in 1853, reached a record high of 14.8 percent of the total in 1930, and subsided to 14.4 percent a decade later.

This, roughly, is the official record. How accurate are these statistics?

Not very, according to recent evidence. This evaluation stems from independent survey findings, a comparison of cohort statistics from successive censuses, birth and death tabulations by the Hawaii Department of Health, anthropological field checks, blood-typing studies, and records of the Department of Hawaiian Home Lands and Kamehameha Schools.

These sources differ widely in the degree of care taken in their preparation. The Kamehameha Schools and Department of Hawaiian Home Lands (both of which limit their services to persons with Hawaiian blood) go to considerable effort to obtain accurate information on the racial backgrounds of persons using their facilities. Anthropological and genetic studies are similarly painstaking. A somewhat greater range of error is possible in the household sample and birth and death statistics published by the State Department of Health; although the survey personnel and registration clerks of the Department are well-trained and experienced, the nature of their work precludes in-depth probing of racial ancestry. Least accurate of all available sources is the decennial census, with its hastily-trained, inexperienced enumerators and superficial coverage of race.

Direct evidence regarding the accuracy of census statistics is provided by the Hawaii Health Surveillance Program survey, conducted on the Island of Oahu by the Hawaii State Department of Health. A probability sample of 36,100 persons, interviewed by carefully trained public health nurses and professional survey staff using a detailed schedule, provided data for the three-year period ended March 31, 1967. A similar survey, covering 8,000 persons, was taken on the Neighbor Islands in the Fall of 1967 for the Vocational Rehabilitation Plan. These surveys indicated an average of 7,360 Hawaiians and 118,660 part Hawaiians (out of an estimated non-institutional, non-barracks population of 652,160) living in the State in 1964-1967. Detailed results appear in table 2. The 1960 Census, in contrast, reported at least 10,502 Hawaiians and 91,109 part Hawaiians in the Islands. Although some of the difference between Health survey and census findings can be attributed to sampling variation, a later survey date, and omission of persons in institutions and military barracks from the Health study, part is obviously related to such matters as schedule design, interviewer training, and editing procedures. Of the two enumerations, the Health survey is in all likelihood the more accurate. Neither count, of course, is free of errors caused by unrecognized or unadmitted racial mixture.

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Misreporting has inflated Hawaiian population totals for many years. Romanzo Adams, for example, estimated that 9,700 persons classified as pure Hawaiians in the 1930 U.S. Census were actually part Hawaiians. As a consequence, the number of full-blooded Hawaiians in the Islands in 1930 was actually 12,936 instead of 22,636, and the number of part Hawaiians was 38,036 rather than 28,336.5/ No allowance was made for part Hawaiians incorrectly classified as non-Hawaiians. Adams wrote:

> For more than a hundred years there has been a passing over of part-Hawaiians into the Hawaiian group. That is, part-Hawaiians, especially the darker complexioned ones, frequently are ignorant of their possession of non-Hawaiian blood or they think that their little non-Hawaiian blood is of no practical importance and so they claim to be full-blooded Hawaiians. It is estimated that, as a consequence of such passing and of further unrecognized intermixture, about 63 percent of the so-called Hawaiians of today have a little of the blood of people who came after 1778. In making this estimate the historic situation covering over a century and a half has been considered.6/

An unpublished study by W. A. Lessa suggests that Adams's estimate, if anything, greatly overstated the number of full-blooded Hawaiians surviving in 1930. Lessa wrote:

> Regarding Hawaiians, the very thorough research I did in 1930-1932 turned up only about 1700 Hawaiians, all others not being "pure" by the strict criteria I applied, whereby I rejected any subject with the slightest known admixture. The present figure ought to be perhaps well under 1,000, considering the small size of Hawaiian families and the marked tendency to intermarry with other racial groups. My data are very close to being as accurate as can be ... 7/

Additional evidence is provided by the State Department of Hawaiian Home Lands. This agency serves families in which at least one member has 50 percent or more Hawaiian blood. In April 1965 a Department official estimated that only about 100 of the 1,700 families on land administered by the Department had any pure Hawaiian members.8/

A study in Hawaii population genetics by Morton, Chung and Mi lends further support to these conclusions. These authors analyzed 172,448 live birth certificates and 6,879 fetal death certificates for the years from 1948 through 1958. Noting "considerable evidence that pure Polynesians lack [type] B, and acquire it only through admixture," they also studied records of the Honolulu blood bank. They concluded that "if the present frequency of B in Hawaiians was attained by a constant rate of admixture, starting from a pure Polynesian population with no B genes, then the Hawaiians born before 1810 were substantially pure Polynesian. On the blood type evidence, 'Hawaiians' have 8.5% Caucasian admixture and 13.7% Chinese admixture, while 'Caucasian-Hawaiians' have 8.4% Chinese admixture and 'Chinese-Hawaiians' have 14.4% Caucasian admixture."9/ Morton and his co-authors thus agree with Adams's conclusion that unreported intermixture dates from the early post-contact period. A similar stand was recently taken by McArthur after careful study of historical materials.10/

Vital statistics compiled by the State Department of Health reinforce the impression that full-blooded Hawaiians may be rarer than is generally recognized. As indicated in table 3, five-year totals on the number of pure Hawaiian births have dropped from 1,362 in 1940-1944 to 289 in 1965-1969. Hawaiian births as a percent of the Hawaiian and part Hawaiian total fell from 9.1 in 1940-1944 to 1.3 in 1965-1969. Even these figures are misleading, since the pure Hawaiian counts include illegitimate babies born to Hawaiian mothers and unknown fathers. Such births accounted for 43.3 percent of the pure Hawaiian total in the most recent five-year period. If illegitimate babies are omitted (since most are probably part Hawaiian), the quinquennial totals for full-blooded Hawaiians have declined from 1,136 to only 164 during this thirty year period.

Comparison of census data with birth statistics provides further evidence. The 1960 U.S. Census reported 28.4 percent more Hawaiians under ten years of age than appeared in statistics on live births for the preceding decade; yet the Census showed 21.7 percent fewer part Hawaiians. When the 1960 Census count on persons 10 to 19 is compared with 1950 Census data on persons under 10, there appears to have been a 5.2 percent increase in Hawaiians and a 17.0 percent decrease in part Hawaiians. When allowance is made for normal mortality and out-migration, these comparisons (presented in greater detail in table 4) strongly indicate an overrepresentation of pure Hawaiians and underrepresentation of part Hawaiians in the Census.

The proportion of Hawaiian births differs widely by source, varying inversely with the degree of care likely to have been taken in compiling the data. Statistics developed by the Kamehameha Schools (which follow a policy of restricting enrollment, except for faculty children, to Hawaiians and part Hawaiians) provide an example. A careful check of enrollment records as of November 1, 1959 showed that only seventeen (or 1.0 percent) of the 1,744 boys and girls in the school were unmixed.11/ Birth statistics for the corresponding age group -- that is, Hawaiian and part Hawaiian children born 1942 to 1956 -- report 5.3 percent as full-blooded. Among Hawaiian and part Hawaiian children five to seventeen years old enumerated in the 1960 Census, 6.5 percent were listed as unmixed. Additional information appears in tables 4 and 5. Although these differences may reflect differential mortality, migration and schooling patterns, it seems more likely that they stem chiefly from interviewer procedures and response verification.

Part Hawaiians are becoming progressively more fractional. In 1969, for example, more than half of the 4,395 Hawaiian and part Hawaiian babies born had one part Hawaiian and one non-Hawaiian parent (see table 6). The composite or average blood mixture of students at the Kamehameha Schools dropped from fifty percent in 1954 to thirty-six percent in 1970, and the proportion with at least half-Hawaiian ancestry declined from 60.9 to 25.4 percent of the student body during the same 16 year span (see table 7). The schools reported forty-one pure Hawaiian students (3.3 percent of the student body) in March 1954 but only four (0.16 percent) in November 1970. The 1964-1967 Hawaii Health Surveillance Program survey cited earlier and in table 2 found that 62,000 of the 93,860 part Hawaiians on Oahu admitted to two or more non-Hawaiian strains. (Among the 31,760 with only one non-Hawaiian strain, 17,800 were Caucasian-Hawaiians and 10,440 were Chinese-Hawaiians.)

The growing number of Hawaii residents with one-eight, one-sixteenth, or even less Hawaiian blood suggests the possibility that many such persons, technically classified as part Hawaiians, may be reporting themselves as non-Hawaiians to census enumerators. Evidence supporting such a notion appears in migration estimates, which show a heavy net out-migration for Hawaiians and part Hawaiians.12/ These estimates, computed by the residual method, may in fact reflect "passing" of part Hawaiians as non-Hawaiians as much as they mirror a true out-migration. A part Hawaiian child, correctly classified on its birth certificate but thought of as non-Hawaiian by the census-taker, would appear as an out-migrant in computations of intercensal components of population change.

In the light of the foregoing comments and data, only the roughest kind of estimate of the "true" number of Hawaiians and part Hawaiians living in the Islands can be ventured. Recent figures on "pure" Hawaiians range from Lessa's informal guess of "well under 1,000" to the 1960 Census total of 11,294. Later data from the Health survey suggest that the 1960 Census count of somewhat more than 91,000 part Hawaiians for the entire chain was perhaps 10 or 15 percent too low. All things considered, the weight of evidence points to a current population of around 130,000 persons with Hawaiian blood. Of this total, probably not more than a few thousand could accurately claim unmixed ancestry, in the strictest sense of the term.

Footnotes

1/ U.S. Bureau of the Census, *Census of Population: 1970*, Final Report PC(1)-B13, table 17 and Appendix B.

2/ Robert C. Schmitt, "New Estimates of the Pre-Censal Population of Hawaii," *The Journal of the Polynesian Society* (in press).

3/ The lower Hawaiian and higher part Hawaiian totals were obtained from a special hand tabulation of 1960 census data, in which non-response was allocated on a pro rata basis; the higher Hawaiian and lower part Hawaiian totals, in contrast, were obtained from a machine tabulation in which non-response was usually assigned on the basis of race reported for the household head. See the Hawaii State Department of Planning and Economic Development, *Racial Statistics for Hawaii, 1960* (Statistical Report 9, December 26, 1963).

4/ Eighteen official censuses have been taken in Hawaii during this period. For data from those not cited here, see Andrew W. Lind, *Hawaii's People*, 3rd edition (Honolulu: University of Hawaii Press, 1967), p. 28, and Robert C. Schmitt, *Demographic Statistics of Hawaii: 1778-1965* (Honolulu: University of Hawaii Press, 1968), pp. 43, 74, and 120.

5/ Romanzo Adams, *Interracial Marriage in Hawaii* (New York: The Macmillan Co., 1937) p. 15.

6/ *Ibid.*, p. 16.

7/ Letter from W. A. Lessa to Robert C. Schmitt, November 11, 1966. Dr. Lessa did his Hawaiian research as part of a larger study under the guidance and jurisdiction of Dr. Harry L. Shapiro of the American Museum of Natural History. The statistical work was completed at the Peabody Museum of Harvard University under Earnest Hooton.

8/ James C. Clark, Planning Coordinator, in discussion with Robert C. Schmitt, April 26, 1965.

9/ Newton E. Morton, Chin S. Chung, and Ming-Pi Mi, *Genetics of Interracial Crosses in Hawaii* (Basel and New York: S. Karger, 1967), pp. 13, 26, 29, and 127.

10/ Norma McArthur, "Essays in Multiplication: European Seafarers in Polynesia," *The Journal of Pacific History*, Vol. I (1966), pp. 91-105.

11/ For Kindergarten through the 12th grade, excluding 10 non-Hawaiian faculty children. Data supplied by the Office of the President, The Kamehameha Schools May 26, 1965.

12/ Robert C. Schmitt, "Recent Migration Trends in Hawaii," *Social Process*, Vol. XXV (1961-1962), pp. 15-32, espec. pp. 19-20.

Table 1.-- HAWAIIANS, PART HAWAIIANS, AND NON-HAWAIIANS: 1778-1779 TO 1970

Year	All races	Hawaiian	Part Hawaiian	Non-Hawaiian	Percent distribution		
					Hawaiian	Part Hawaiian	Non-Hawaiian
1778-1779	250,000	250,000	-	-	100.0	-	-
1823	134,925	134,750	-	175	99.9	-	0.1
1853	73,138	70,036	983	2,119	95.8	1.3	2.9
1878	57,985	44,088	3,420	10,477	76.0	5.9	18.1
1910	191,909	26,041	12,506	153,362	13.6	6.5	79.9
1940	423,330	14,375	49,935	359,020	3.4	11.8	84.8
1950	499,769	12,245	73,845	413,679	2.5	14.8	82.8
1960 1/ .	632,772	11,294	91,109	530,369	1.8	14.4	83.8
1964-1967	681,000	8,000	120,000	553,000	1.2	17.6	81.2
1970 2/ .	769,913	(NA)	(NA)	(NA)	(NA)	(NA)	(NA)

NA Not available

1/ Another tabulation, using a different method for distributing nonresponse, reported 10,502 Hawaiians, 91,597 part Hawaiians, and 530,673 non-Hawaiians.

2/ Racial classifications used in the 1970 census were not comparable to those of previous censuses.

Source: 1778-1779 from Robert C. Schmitt, "New Estimates of the Pre-Censal Population of Hawaii," *Journal of the Polynesian Society* (in press); 1823-1960 from Robert C. Schmitt, *Demographic Statistics of Hawaii: 1778-1965* (Honolulu: University of Hawaii Press, 1968), pp. 42, 74, and 120; 1964-1967 from present report, table 2; 1970 from U.S. Bureau of the Census, *Census of Population: 1970*, Final Report PC(1)-B13, pp. 26 and 28.

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Table 2.-- ETHNIC STOCK, FOR OAHU, 1964-1967, AND THE NEIGHBOR ISLANDS, 1967

Ethnic stock	The State 1/		Oahu, 1964-1967 1/	Neighbor Islands, 1967
	Number	Percent		
All groups	652,160	100.0	522,160	130,000
Hawaiian	7,340	1.1	4,840	2,500
Part Hawaiian	118,640	18.2	93,840	24,800
One non-Hawaiian strain 2/	(NA)	(NA)	31,760	(NA)
Two or more non-Hawaiian strains	(NA)	(NA)	62,080	(NA)
Non-Hawaiian 3/	522,520	80.1	422,620	99,900
Ethnic stock not reported	3,660	0.5	860	2,800

NA Not available.

1/ Excludes approximately 33,000 persons in military barracks (over 99 percent non-Hawaiian) and 4,000 inmates of institutions (about one-fifth of whom were Hawaiian or part Hawaiian).

2/ Includes, for Oahu, 17,800 Caucasian-Hawaiians, 10,640 Chinese-Hawaiians, and 3,320 other part Hawaiians.

3/ Chiefly Caucasian (26.2 percent of the State total), Japanese (30.4 percent), Filipino (8.2 percent), and mixed other than part Hawaiian (8.2 percent).

Source: Hawaii Health Surveillance Program survey of Oahu and Vocational Rehabilitation Plan survey of the Neighbor Islands, as reported in the Hawaii State Department of Planning and Economic Development, Social Data from the 1970 U.S. Census (memorandum, June 3, 1971), table 5, and Characteristics of the Population of Oahu by Ethnic Stock, 1964-1967 (memorandum, June 9, 1971), table 1.

Table 3.-- LIVE BIRTHS, FOR HAWAIIANS AND PART HAWAIIANS: 1940 TO 1969

Period 1/	Hawaiians and part Hawaiians	Hawaiians					Part Hawaiians
		Number	Percent 2/	With Hawaiian father	Father not specified		
					Number	Percent 3/	
1940 to 1944	14,787	1,342	9.1	1,126	216	16.1	13,445
1945 to 1949	17,613	1,001	5.7	764	237	23.7	16,612
1950 to 1954	20,145	764	3.8	544	220	28.8	19,381
1955 to 1959	22,353	599	2.7	407	192	32.1	21,754
1960 to 1964	26,807	427	1.6	242	185	43.3	26,380
1965 to 1969	22,524	289	1.3	164	125	43.3	22,235
1940 to 1969	124,229	4,422	3.6	3,247	1,175	26.6	119,807

1/ Fiscal years ended June 30, 1940 to 1947; calendar years 1948 to 1969.

2/ Births classified as Hawaiian as percent of total Hawaiian and part Hawaiian births.

3/ Hawaiian births with unspecified father as percent of all Hawaiian births.

Source: Hawaii State Department of Health, Annual Report, Statistical Supplement (annually) and records.

Table 4.-- SELECTED GROUPS OF HAWAIIANS AND PART HAWAIIANS: 1940 TO 1960

Subject	Hawaiians and part Hawaiians			
	Total	Hawaiians 1/		Part Hawaiians
		Number	Percent	
Live births, 1940-1949 2/	32,200	2,363	7.3	29,837
Population under 10 years old, 1950	29,559	1,827	6.2	27,732
Percent of births, 1940-1949	91.8	77.3	...	92.9
Population 10 to 19 years old, 1960	24,933	1,922	7.7	23,011
Percent of births, 1940-1949	77.4	81.3	...	77.1
Percent of pop. under 10 years old, 1950	84.3	105.2	...	83.0
Live births, 1950-1959 2/	42,498	1,363	3.2	41,135
Population under 10 years old, 1960	33,954	1,725	5.1	32,229
Percent of births, 1950-1959	79.9	126.6	...	78.3
Live births, 1942-1954 2/	46,989	2,503	5.3	44,486
Population 5 to 17 years old, 1960	37,181	2,410	6.5	34,771
Percent of births, 1942-1954	79.1	96.3	...	78.2
Kamehameha Schools enroll., Nov. 1, 1959	1,749	17	1.0	1,732
Percent of live births, 1942-1954	3.7	0.7	...	3.9
Percent of population 5 to 17, 1960	4.7	0.7	...	5.0

1/ Birth totals include children with Hawaiian mothers and unspecified fathers: 453 for 1940-1949, 412 for 1950-1959, and 375 for 1942-1954.

2/ Birth statistics are for fiscal years ended June 30, 1940 to 1947; calendar years, 1948 to 1959.

Source: Hawaii Department of Health, annual reports for 1940-1959 and records; U.S. Bureau of the Census, U.S. Census of Population: 1950, Bulletin P-C52, tables 29 and 30, and U.S. Census of Population: 1960, Final Report PC(2)-1C, table 61; Kamehameha Schools, records.

Table 5.-- BIRTHS AND DEATHS OF HAWAII RESIDENTS, BY RACE: 1965 TO 1969

Subject	Total	Hawaiian	Part Hawaiian	Non Hawaiian
Live births: 1/				
1965	16,228	61	4,665	11,502
1966	14,920	74	4,512	10,334
1967	14,735	68	4,364	10,303
1968	14,470	40	4,129	10,301
1969	15,550	46	4,543	10,961
1965-69	75,903	289	22,213	53,401
Civilian deaths: 2/				
1965	3,571	186	421	2,964
1966	3,638	206	463	2,963
1967	3,732	195	496	3,043
1968	4,004	202	548	3,234
1969	3,962	210	485	3,257
1965-69	18,901	999	2,421	15,461
Natural increase:				
1965	12,657	-125	4,244	8,538
1966	11,288	-132	4,049	7,371
1967	11,003	-127	3,870	7,260
1968	10,466	-162	3,581	7,067
1969	11,598	-164	4,068	7,704
1965-69	57,002	-710	19,792	37,940

1/ For data on place of occurrence basis, see tables 3 and 4.

2/ Excludes armed forces and Hawaii residents dying out of State.

Source: Annual Report, Department of Health, State of Hawaii, Statistical Supplement (annually).

Table 6.-- LIVE BIRTHS OCCURRING IN HAWAII, BY RACE OF FATHER AND MOTHER: 1969

Race of father	Race of mother			
	All races	Hawaiian	Part Hawaiian	Non Hawaiian
All races	15,690	146	3,296	12,250
Hawaiian	132	30	63	39
Part Hawaiian	2,543	60	1,380	1,114
Non-Hawaiian	11,619	40	1,328	10,242
Unknown	1,376	16	505	855

Source: Annual Report, Department of Health, State of Hawaii, Statistical Supplement, 1969, p. 10.

Table 7.-- RACIAL COMPOSITION OF STUDENTS AT THE KAMEHAMEHA SCHOOLS: 1929 TO 1970

Subject	Percent distribution 1/					
	1929	1954	1959	1964	1969	1970
Total	100.0	100.0	100.0	100.0	100.0	100.0
Fraction of Hawaiian blood:						
Unmixed	7.3	3.3	...	0.8	0.08	0.16
7/8	...	2.1	...	1.5	0.62	0.90
3/4	23.4	11.7	...	4.0	3.25	3.13
5/8	...	5.3	...	8.8	7.65	7.26
1/2	47.7	38.5	...	19.1	15.03	14.33
3/8	...	11.4	...	21.2	19.98	19.97
1/4	18.1	24.8	...	27.5	27.74	28.31
1/8	3.4	2.9	...	14.7	21.82	22.09
1/16		-	...	2.5	3.83	4.25
Average or composite mixture:						
Hawaiian	...	30.0	40.8	36.	32.60	35.88
Caucasian	...	23.6	23.9	29.	29.35	26.16
Chinese	...	16.0	17.2	21.	23.68	23.57
Japanese	...	3.6	5.0	3.	8.16	8.33
Filipino	...	1.0	5.3	6.	3.33	3.51
Others	...	5.8	7.8	5.	2.85	2.35

1/ The number of students was 436 in 1929, 1,158 in 1954, 1,749 in 1959, 2,075 in 1964, 2,388 in 1969, and 2,589 in 1970.

Source: The Kamehameha Schools, Department of Admissions and Alumni Affairs, data supplied May 4, 1963, May 7, 1965, and June 29, 1971.

GEORGE R. ARIYOSHI
GOVERNOR

FRANKLIN Y. K. SUNN
DIRECTOR
RICHARD K. PAGLINAWAN
DEPUTY DIRECTOR
ALFRED K. SUGA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF SOCIAL SERVICES AND HOUSING

January 21, 1983

Ms. Kina'u Boyd Kamali'i
Chairperson
U.S. Native Hawaiians
Study Commission
500 University Avenue, #1601
Honolulu, Hawaii 96826

Dear Ms. Kamali'i:

Thank you for the opportunity to review the selected portions of your Commission's "Draft Report of Findings" which were forwarded to us by your letter of December 20, 1982.

In our response, we have compiled the comments of the Hawaii Housing Authority and the Intake Service Centers, as well as of our DSSH staff. We offer our suggestions in the attachment in the same sequential order as the material was submitted to us.

We recognize how prodigious and difficult an undertaking is this study project and hope that our suggestions, however modest, will assist you in successfully accomplishing your report. If we can be of any further help, please contact our public information officer, Chapman Lam, at telephone number 548-4766.

Sincerely,

Franklin Y. K. Sunn
Director

DSSH COMMENTS ON THE NATIVE HAWAIIANS STUDY COMMISSION "DRAFT REPORT OF FINDINGS" RELATING TO HOUSING AND SOCIAL SERVICES IN THE STATE OF HAWAII

Page 93, Section B., second paragraph (describing the population density of the State). We suggest that the 1981 State Data Book figures be used. The data book states that defacto density for 1980 for the State was 163.8 per square mile; however, the defacto density for Oahu was 1,386.8 per square mile. (Pages 11 and 17, 1981 State Data Book.)

Page 93, Section B., third paragraph (describing vacancy rates) and Table 45. There should be further explanation regarding the 10.3 percent vacancy rate listed for the State of Hawaii in 1980. Units that are temporarily occupied or intended for occupancy entirely by persons who have residences elsewhere (e.g., tourist-type condominiums) are classified as "vacant" in the survey. Shared ownership or time-sharing condominiums are also classified as "vacant, held for occasional use." Both of these types of units currently affect the numerical counts and make rental vacancies appear higher and at prices generally above comparable long-term rental units.

Page 96, Section C., fifth paragraph (under Present Demand). There should be further amplification of the "7,000 applicants ... on the waiting list for homesteads." Of this number of applicants, how many fit, in terms of need, in this rehabilitation program? How many of the applicants are already homeowners? What is their income? Are they able to secure their homes without Hawaiian Home Lands assistance?

Page 40, first paragraph (describing welfare categories). We suggest revising this paragraph and Table 22 with updated figures as shown on Attachment A. (Table 22 and Table 23 base population figures are inconsistent and should be corrected.) We would also like to note that it is possible to view this type of data in quite another context. If welfare is based upon need (i.e., in accordance with strict Federal and State guidelines), then the data may also demonstrate a "healthy attitude" on the part of native Hawaiians toward their welfare programs. Their social concept of "shame" may not prevent the use of welfare and, therefore, we may be seeing their greater, more optimum use of welfare programs as compared to other cultures.

Page 41, (Summary). The view expressed in this summary appears somewhat paradoxical, inasmuch as the low income status (perceived as "dismal" in the summary) of some native Hawaiians could also have been the result of individual choice, i.e., for a "back-to-the-land," shun western materialistic cultures kind of approach. (This is an approach espoused by many Hawaiian activist organizations.) The question, then, is from whose perspective is this summary statement made?

Page 42, Section G., second paragraph (Ethnic Stock of Adult Arrestees and Table 23). We suggest modifying this paragraph and the "Number" and "Percent" figures in Table 23 (under "Population") to reflect the following 1980 ethnic distribution data of the DOH Health Surveillance Program.

Ethnicity	Number	Percent Dist.
Total	930,269	100.0
Caucasian	244,832	26.3
Japanese	218,176	23.5
Hawaiian/Pt. Hawaiian	175,453	18.9
Filipino	104,547	11.2
Chinese	47,275	5.1
Korean	11,802	1.3
Black	11,799	1.3
Samoan	11,173	1.2
Puerto Rican	6,649	0.7
Mixed - Other	87,840	9.4
Unmixed - Other, Unknown	10,723	1.2

Referring to Table 23 and other tabulations, there should be very clear qualifying statements that the statistics relating to "Part-Hawaiians" are very inexact. Furthermore, if the data on the number of Part-Hawaiians could be further refined to show those of them who are of pre-dominantly non-Hawaiian ethnic stock and if these numbers were redistributed back to their primary ethnic stock, we suggest that the resulting comparisons may be substantially altered.

Tables 23 and 24 are not consistent in the use of ethnic terms (e.g., the terms "Caucasian," "Negro," and "Indian (American)" are used in Table 23, while Table 24 uses "White," "Black" and "Indian").

Attachment A

Welfare

The number of native Hawaiians in certain welfare categories far exceeds their relative share of the population. The table below shows that, while native Hawaiians comprised 12 percent of the total state population, they made up 30.8 percent of those in the AFDC-UP category. In the general assistance category, 22.1 percent were native Hawaiians and native Hawaiians comprised 15.2 percent of the food stamps program. However, native Hawaiians comprised 10.7% of the medical category and thus were under-represented when compared to their population share.

TABLE 22

PERCENT OF NATIVE HAWAIIANS IN EACH WELFARE CATEGORY COMPARED TO PERCENT OF NATIVE HAWAIIANS IN TOTAL POPULATION

	State Population	Welfare Categories			
		AFDC-UP	General Assistance ABD	Food Stamps	Medical
State					
Total	964,691	54,819	9,713	41,577	20,269
Hawaiian	115,500	16,878	2,144	6,331	2,171
Percent	12.0	30.8	22.1	15.2	10.7
Oahu					
Total	762,565	40,101	7,372	28,123	14,166
Hawaiian	80,172	12,302	1,363	3,797	1,116
Percent	10.5	30.7	18.5	13.5	7.9
Hawaii					
Total	92,053	8,75	1,441	7,864	3,344
Hawaiian	17,274	2,770	451	1,453	594
Percent	18.8	31.6	31.3	18.5	17.8
Maui					
Total	70,991	3,825	553	3,153	1,551
Hawaiian	12,350	1,273	220	805	279
Percent	17.4	33.3	39.8	25.5	18.0
Kauai					
Total	39,082	2,096	347	2,437	1,208
Hawaiian	5,704	525	110	276	182
Percent	14.6	25.0	31.7	11.3	15.1

Source: State population obtained from The State of Hawaii Data Book, 1982. Welfare data obtained from Department of Social Services and Housing, October-December 1982.

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ALU LIKE
WORKING TOGETHER
MOLOKAI ISLAND CENTER
P.O. Box [illegible] [illegible]
Telephone [illegible]

November 18, 1982

NATIVE HAWAIIAN STUDY COMMISSION
Honorable Kinau Kamalii - Chairperson
P.O. Box 50247
Honolulu, Hawaii 96850

To Honorable Kina Kamalii

We, the Moloka'i Island Multi-Service Board, feel that the preliminary report of the Hawaiian Study Commission will adversely affect the welfare of our aboriginal Native people now and in the future and also be very detrimental to the State of Hawaii.

Since the final report of the Hawaiian Study Commission will be used as a source of reference by the Congress of the United States in their deliberations, we ask that the final report be accurate and all available data included. We recommend that the Hawaiian Study Commission include in their final report: 1. The history of the overthrow of our Kingdom of Hawaii; 2. Mr. James H. Blount report to President Cleveland; and 3. President Clevelands message of December 18, 1893 to Congress.

The Hawaiian Study Commission preliminary report researched by federal agencies of the United States government leans toward including only select statistics favorable to the United States Government. Instead of looking into the possibility of reparation the Hawaiian Study Commission reports tend to imply that we gave up our rights to restitution a long time ago.

No where in this report is there any mention that our trouble began with the arrival of the white man in Hawaii nei. How our royalty were forced to comply with the wishes of the ruthless whites thru their government show of military power. How the whites infiltrated into position of power in our government and finally how they became our rulers.

E alu like mai kakou, E na 'oiwi o Hawai'i
Let us work together, natives of Hawai'i

- 2 -

To make a legal determination using existing laws developed to settle claims advocated by Indians and Eskimos is far fetched. We are not Indians and Eskimos. We are Hawaiians and a different race of people.

Finally to add credibility to this Hawaiian Study Commission we recommend that a mini, "non-government member", commission be created to deal with the question of reparation. The group to be composed from minority races within the United States. As an example; a prominent Black; Oriental; Indian; Eskimo and Polynesian.

ALOHA NUI LOA,

Michael Tancayo

Michael Tancayo
Island Multi-Service Board
Chairman

CC: Winona Rubin

WAYNE C. THIESSEN

ALFRED A. YEE
DIVISION LEO A. DALY

10/8/82

Kinau —

Your Study Commission report seems very comprehensive, so far.

I will be forwarding some specific recommendations.

The problem with finding any sort of monetary benefits for the Hawaiian people (in the techniques considered to date) is that such funds have to come out of "someone elses" pocket. I am sure you know that full well.

---

②

If we can get moving on the attached program (HIFSI), however, it will generate large amounts of new income for Hawaii. Much of this new income can be made to accrue to the benefit of citizens of native Hawaiian ancestry (lease rent on specific ceded lands – all counties – which are now largely unused; substantial increase in jobs for our people; a new government climate which looks toward what we can do for the United States – instead of what the United States can do for us).

Lets make it happen!

Aloha,

Wayne

ALFRED A. YEE DIVISION LEO A. DALY
INTER-OFFICE MEMORANDUM

Kinau Kamali'i

INFO

DATE 30 September 1982

TO File

FROM Wayne Thiessen

SUBJECT Importance of having a prospective Hawaii Integrated Fleet Support Industry program ready for Legislative leadership review in late November 1982

BACKGROUND

A group of Hawaii engineering, labor, shipping, business and political organizations and individuals have been urging, for a number of years, the strongest possible coordinated state action concerning a program to significantly increase job opportunities in Hawaii.

The planned federal budgets (navy ship repair funding) for FY 1982, 1983, 1984, and 1985 have given Hawaii the best opportunity that it has had in decades to build a solid and enduring economic base. The opportunity not only includes the proposed major expansion of the ship repair industry, but also includes the concurrent provision of a catalyst for a major expansion of the marine protein industry (fishing/offshore aquaculture), the transpacific cargo interchange industry (Hawaii transshipment), light manufacturing industries, the competitive export of sugar and a rebirth of a strong Hawaii construction industry.

As noted below, there is substantial and sustained competition (from interests on the U.S. west coast) for the potential jobs that could and should come to Hawaii. Only a fully coordinated and strongly led government-industry-labor team from Hawaii can succeed in this overall endeavor.

Timing is all-important.

Certain efforts to have the subject program begun in the early 1970's were thwarted by an illusion that "tourism, sugar and pineapple (with some attention to diversified agriculture and land-based aquaculture)" would maintain Hawaii's economic strength in perpetuity.

Specific efforts in 1981 to have an initial 4000 ton drydock lift facility (leased from the navy) available by February 1982 were unable to develop sufficient interest by those key individuals who could "make it happen". That "once in a decade" opportunity no longer exists.

Finally, with a realization in early 1982 that Hawaii's continued prosperity was strongly in doubt, the Legislature directed that a study be made in mid-1982 with the results to be ready for effective legislative action during the 1983 session of the Legislature.

Effective legislative action in 1983 means providing the leadership of the key committees of the House and Senate with the Executive Branch's proposals in November of 1982 and then having key committee staffs study the proposals during November/December of 1982.

Memo to File
30 September 1982
Page Two

The first phase of the Private Sector Drydocking Ship Repair Facility study was essentially completed by late May of 1982. The Executive Branch, however, became occupied with other matters during May, June, July, August, and September of 1982. They are now said to be planning to provide funds for the second phase of the study starting in late October or early November of 1982. The Legislature's original concept was that the first phase contractor would be authorized to start the second phase in early July 1982 -- and the total package would be ready by September 30, 1982. The Legislature appropriated the funds with that schedule in mind.

Due to the late start on the second phase, the Executive Branch is understood to be considering the idea of delaying the completion of the second phase to a date later than the end of November of 1982. They may be thinking that action by the 1983 Legislature will not be critical and therefore they may be willing to accept a delay in legislative action until 1984.

This memo has been prepared to describe the major negative results of such a program delay.

COMPETITION

Most of the following established west coast shipyards and ship repair contractors are expected to be in competition with the three or four competent ship repair companies that will develop in Hawaii.

Seattle:
  Lockheed Shipbuilding and Construction Company
  Todd Shipyards Corporation
  Lake Union Drydock Company

Tacoma:
  Tacoma Boatbuilding Company

Portland:
  Northwest Marine Iron Works
  Dillingham Shipyard, Inc.

San Francisco:
  Bethlehem Steel Corporation
  Triple "A" Machine Shop, Inc.
  Todd Shipyards Corporation

Los Angeles/San Pedro:
  Todd Shipyards Corporation

San Diego:
  National Steel and Shipbuilding Company
  Triple "A" South
  Southwest Marine, Inc.

Memo to File
30 September 1982
Page Three

Two of the contractors (Lockheed Shipbuilding and Todd San Pedro) have strong Navy shipbuilding contracts through 1986. Three others (National Steel, Todd Seattle, and Tacoma Boat) have declining navy shipbuilding contracts ending between 1983 and 1985.

At least twelve of these fourteen prospective competitors would, therefore, be expected to be quite interested in getting Hawaii homeported ships for repairs on the west coast, holding presently west coast homeported ships from being relocated to Hawaii and getting new ships which are added to the Pacific Fleet to be homeported on the west coast.

Available for the short run[1] is between $600 million and $800 million of annual Navy ship repair and modification work; which is increasing at the rate of 7% to 9% a year -- at least through FY 1985.

However, those ship repair contractors (and their supporting political entities) which move fastest in 1982/1983 may very well squeeze out later entries (in 1984/1985). The Navy plans ship repairs at least a year before the actual drydocking and repair dates.

As noted in the Private Sector Drydock Ship Repair Facility first phase study, Hawaii has attractive advantages for the Navy if we can "get our act together".

If Hawaii does not move with strong leadership and sense of purpose, however, the business will stay on the west coast. Once new facilities are built[2] and new personnel are hired in California, Oregon and Washington[2], it will be quite difficult to relocate much of this business to Hawaii.

FEDERAL BUDGETS

As suggested in Figure A, the Federal budgets for FY 1982-1985 are fairly well established. They are "Reagan Administration budgets". There is naturally some uncertainty about the FY 1986, and beyond, budgets. A possible new Administration may decrease Navy ship operation outlays[3], may decide to increase the capacity of government shipyards and may (at the least) believe that if Hawaii could not develop coordinated action (government-business-labor) when the resultant income was fairly certain, they don't deserve any special consideration in later years.

As noted in Figure A, the investment group who will be asked to underwrite the necessary capital facilities would have 29 months of quite certain high level income if they act on or about May 1, 1983. There would be only 17 months of such "security" if they wait a year -- and in the latter case their floating drydock may only have 8 months of operating "security" after its first successful navy frigate drydocking.

SUMMARY

A possibly unprecedented historic opportunity is in danger of "slipping through Hawaii's fingers".

Memo to File
30 September 1982
Page Four

It is up to the political leadership of Hawaii to immediately reverse this trend.

Every other public issue in Hawaii (crime, education, quality of life, morality in government, etc.) will suffer severe negative impact unless we can improve the prospect of large numbers of good jobs for the citizens of our state.

WCT/my

(1) In addition to the 65% of repairs done in U. S. Navy shipyards (Long Beach, Mare Island, Bremerton, and Pearl Harbor).

(2) To accommodate the substantial increase in ship repairs (as well as Navy shipbuilding) for FY 1983-1985.

(3) On the other hand, if Hawaii develops the program proposed for 1982-1984, its contractors will be in the best position (of any in the Pacific) to keep a high level of work -- even with a (not likely, but possible) decrease in overall Pacific Navy ship repairs after 1986.

WCT/my

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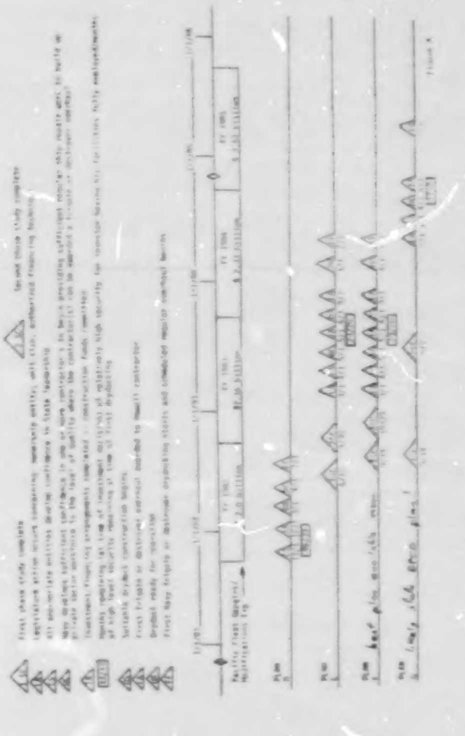
Figure A

Material presented to Chamber of Commerce and Legislature

As noted in previous material, it seems likely that if the Hawaii private sector had a suitable drydock capability, and associated infrastructure work force capability, they could readily accomplish most of the destroyer/frigate naval ship repair work (by FY 1985 or FY 1986) with PHNSY still doing $300 million or more of work at that time (concentrating on submarines, cruisers and other larger ships). Figure E-1 shows a possible implementation schedule to lay the groundwork for that desireable level of new private sector income for Hawaii. The second phase of this study is scheduled to provide a substantially more detailed implementation schedule.

The methodology for determining the optimum design, cost and schedule options for obtaining successive levels of suitable floating drydock capability in Hawaii are to be described in the second phase of the study. One useful type of drydock construction would involve concrete structures that have relatively low life cycle costs. Large floating structures (including drydocks) using this construction technique are now operating successfully throughout the world.

As a result of several years of development work in the western Pacific and other locations, a particular two stage type of drydocking concept has been developed and demonstrated. This Tender Dock or Daughter Dock concept might (at a later date) allow the Hawaii ship repair activity (in the private sector) to reach substantially in excess of the 500 million a year that seems very possible with a single additional 4,000 to 5,000 ton lift drydock. The utilization of this two-stage drydock technique would be expected to also best accommodate the distribution of the benefits of the Hawaii Integrated Fleet Support Industry to the several counties of Hawaii.

The basic financing package that is expected to be recommended, in the second phase of this feasibility study, should allow private investors (in the development and growth of Hawaii's maritime industry) to obtain a quite satisfactory return on their investment.

Fifteen identifiable interest groups seem to have a close relationship and potential benefit from the proposed Private Sector Drydock Ship Repair Facility.

Figure E-2 lists these interest groups. The key leadership in each of these groups should be contacted as a result of the first phase study to obtain their maximum input into the second phase of the study.

Exhibits E-6 through E-11 provide indications of the support for the program that has been extended by the Legislative Branch of the Hawaii government (interest group #1).

Exhibits E-12 through E-15 provide indications of the study support for the Hawaii Integrated Fleet Support Industry by the labor organizations in Hawaii.

Exhibit E-16 illustrates the substantial support evidenced by the Hawaii County administration.

DIRECT AND INDIRECT ADVANTAGES TO THE NAVY

Platforms provided to Chamber of Commerce and Legislature

	Level B - Install a 4000/6000 ton floating drydock and place all or most of the repairs of the present 32 destroyers/frigates in the hands of the Hawaii Private Sector	Level C - Install a 30,000 ton floating drydock and a second 4000/6000 ton lift platform (perhaps at Hilo); facilitate the assignment of as many as three more destroyer or amphibious squadrons to Hawaii, as well as the voyage repair drydocking of Matson/U.S. Lines ships and regular Hawaii cruise ships	Level D - Install four additional 4000/6000 ton lift platforms (perhaps at Port Allen, Barbers Point, Kahului and Kawaihae) with associated increase in Hawaii Ship repair workforce and industrial support capability
Earliest Practical Date	February, 1984	June, 1985	June, 1985 through June, 1990
Direct Benefits	Substantial savings in fuel cost (up to $3,000,000 a year) with strengthening of opportunity for PHNSY to do effective work on all non-nuclear submarines, and larger ships Four destroyer squadrons can be assured of having their ships 2,000 miles closer to their areas of potential combat needs Better crew and recruitment retention prospects	Double the fuel savings noted for Level B effort Two additional destroyer squadrons and one amphibious squadron might be located 2,000 miles closer to their areas of potential urgent deployment Increased savings for ship repair and maintenance due to economies of specialization, larger numbers of repair ports and particularly skilled ship repair tradesmen	Expect four times the fuel savings as noted in Level B effort All of the benefits of Level B and Level C plus substantial military dispersion of industrial support base away from Pearl Harbor
Indirect Benefits	Additional work able to be done on fishing vessels and small cargo liners, providing increased volume impact on lower unit costs for navy ship repairs Lower machinery and personnel wear and tear related to trips between Hawaii and west coast, which make no contribution to national defense	Make Hawaii a major candidate for Navy stockpiling and resulting lower costs for Navy and other military supplies in Hawaii and the western Pacific. Allow major savings in the overall Pacific Fleet M & R budget which allows additional Navy expenditures for modern ships Substantially lower expenditure of "wasted" personnel hours and machinery operating hours due to Hawaii-West coast transits	Provide a major stimulus to the Hawaii economy and American export capability through the potential Resource Crossroads Program, to the effect that there is less national unemployment, lower federal deficits and more tax money available for constructive national objectives The anticipated, resulting, strengthening of free nations' economies in Asia and the Indian Ocean area may diminish some naval service task force deployment obligations

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GEORGE R. ARIYOSHI
GOVERNOR

DR. DONNIS H. THOMPSON
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P. O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

January 11, 1983

Ms. Kina'u Boyd Kamali'i
Chairman
United States Native Hawaiians
  Study Commission
500 University Avenue, Apt. 1001
Honolulu, HI 96826

Dear Ms. Kamali'i:

Mahalo for the opportunity to react to the draft of the Native Hawaiians Commission report. I have had my staff in the Offices of Instructional Services and Personnel Services review the excerpts dealing with Education as you requested. Their specific and general comments follow:

Page 86. The report quotes a part of the goal statement of the Hawaiian Studies Program from the Hawaiian Studies Program Guide (Draft), p. II-1. We believe that the parts omitted are basic and integral to the foundation of the program. We intend for all of our students, Hawaiian and non-Hawaiian, in all grades from Kindergarten to Twelve to have the opportunity to learn about the early Polynesian immigrants, the native Hawaiians and all of the other immigrant groups and their interrelationships which have resulted in the Hawai'i which we know today. We also believe that it is important for our students to recognize that we live in an island environment with its physical and metaphysical aspects, limitations and possibilities.

Page 87: We prefer the use of Hawaiian words without a pluralizing -s. Therefore, we use the form "kūpuna" for elders. Also, as an update since you received your initial information, curriculum guides for all grades K-6 have been completed. In 1982-83, there are 82 schools involved in the program with kūpuna in 886 elementary classes.

On a general level, we think you might want to address the question, "What do we as Hawaiians expect from the educational system and what can we do about getting it?" The Alu Like Survey in 1976 asked fundamental questions about education but we have yet to see a definitive statement of expectations held by the Hawaiian community of the educational system. In order for the

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system to be more responsive to the needs and expectations of Hawaiians, perhaps the Office of Hawaiian Affairs, Alu Like, the Queen Lili'uokalani Children's Center, the Kamehameha Schools/Bernice P. Bishop Trust and other Hawaiian community agencies and groups along with the Study Commission should study and make recommendations as to what those unique expectations might be.

It is intimated that the educational system in Hawai'i selectively destroyed the Hawaiian culture as it Americanized the children of Hawai'i. If the culture were indeed destroyed, which we do not believe to be true, the causes have to be so much more complex than that the dominant Haole or western-oriented school system did a total brainwash of the native population. The churches played a large part in this as did the centers of power in mercantilism, commerce and agribusiness. The other established ethnic groups could also complain that the culture of their respective ancestor generations who came to Hawai'i were also "destroyed" by the western-oriented school system of this Territory which had, rightly or wrongly, been taken over by the United States.

We are living in a time when diversity of interests, backgrounds and cultures is far more tolerated in the United States and other parts of the world than it was since the time of western contact here through the Second World War. There have been terrible injustices and inequities carried out against minority populations--ethnic, religious and socio-economic. Perhaps the Hawaiians were dealt a harsh hand in the past but the modern public educational system in Hawai'i is now striving to promote not only Hawaiian culture but excellence in education for our Hawaiian and non-Hawaiian children and for this we need the kōkua and support of the leaders in all areas of the Hawaiian community.

Finally, we acknowledge data presented in the report regarding the ethnic backgrounds of those in educational officer and teacher forces in the public school system. This subject, too, is far more complex than simply implying that Hawaiians or others have been systematically excluded. Family attitudes and influential teachers generally have a major influence on how many youngsters eventually become teachers and, subsequently, educational officers. There have been so few Hawaiian and part-Hawaiian students matriculating from the public school system to the University in the past decades that it is no surprise that there are few teachers and educational officers of Hawaiian ancestry. When teachers were really needed by a rapidly expanding school system in the 1960's, local interest was not enough to fill the positions needed so the Department had to recruit teachers from the Mainland. That would have been a perfect time for more Hawaiians to have been hired into the system but the interest was not there in that "pre-renaissance" era.

Ms. Kina'u Boyd Kamali'i
Page Three
January 11, 1983

I hope that the various memo's expressed above will be helpful to you as you refine your report. We all realize that you and the other members of the Commission continue to have a tremendous job ahead of you. Good luck and aloha as you continue your work.

Sincerely,

Donnis H. Thompson

Donnis H. Thompson
Superintendent

DHT:ad

Honolulu, Hawaii 96822
November 15, 1982

N 22

Dear Sir,

Before earning a Juris Doctorate in Law, I was a graduate student of History at the University of Hawaii. Over the years since then, I have become familiar with the title by descent of Elizabeth Kekaaniau Pratt to the Hawaiian Throne.

Her title is well-supported by documented proof. Naturally, I am surprised and puzzled that this knowledge is not reflected in the findings of the first draft of the Native Hawaiian Study Commission Report(pp. 125-126).

Instead, what does come into clear relief seems a miracle of misunderstanding of how the monarchial system worked. The statement that the election of King Kalakaua "changed the line of succession from the Kamehameha line to the Kalakaua line"(p. 126) is very misleading and is contradicted by the history and constitutions of the Hawaiian Kingdom.

Also, it invites the erroneous conclusion that Kalakaua had the authority to establish a line of succession comparable to that which exists in Great Britain today.

By the terms of Article 22 of the Constitutions of 1864 and 1887, as published in Robert C. Lydecker's *Roster Legislatures of Hawaii*, Kalakaua's election did make him the "stirps" or starting point for a new royal line. However, without an issue of his body, the only way he could establish a line of succession was to petition Parliament *with success*(Articles 80,82), for a constitutional amendment adding names to the succession. Such was not the case. Therefore, Kalakaua could only be survived by a single successor, Liliuokalani, his nominee, who was ratified by the House of Nobles and publicly proclaimed in his lifetime by the terms of Article 22.

King Lunalilo was also an elected "stirps" or starting point for a new royal line Feb. 3, 1874. But failing both an issue of his body and a ratified nominee, there was no line of succession. Excluded were Lunalilo's father, who inherited a life interest in his estate, and Lunalilo's many cousins including Queen Emma.

Again, Kamehameha V was survived by Princess Ruth, his half sister and sole heir to his estate. But Ruth was not in line of succession.

A truly informed and open-minded study of the monarchial system would reveal that since Liliuokalani and her niece, Kaiulani, died without issue, Elizabeth Kekaaniau Pratt, the last of the monarchy's eligible pool, was the undoubted heir to the Hawaiian Throne.

Kamehameha III, the last absolute sovereign, had exercised royal powers superior in binding authority to those of his successors. Moreover, his grant of a constitutional monarchy to his subjects was voluntary. It was not extorted from him by force. Under the circumstances his actions and orders handed down are to be construed most favorably to him, the grantor.

By and with the advice of the nobles or chiefs etc. with whom he consulted "to promote unanimity"(Lydecker, p. 12), Kamehameha III promulgated an order in council, dated June 29, 1844, which declared the preemptive rights to the throne of a company of equals or near equals of the highest chiefly rank. These "royal students" of which Elizabeth was the last survivor, were proclaimed:"Princes and Chiefs eligible to be Rulers".

They received instruction to fit them to rule and then formed a pool of eligibles for the throne. The stratification that resulted in the creation of this pool carried the presumption of ineligibility for those outside of their circle as well.

By the time Liliuokalani died without issue and predeceased by Kaiulani, Elizabeth Pratt was the *only* preemptive heir left of the eligible pool.

Because the monarchy created the pool and then made no further provision, the choice of Parliament was limited to this last eligible by her *preemptive right*,which she undoubtedly did possess, against any potential claimant to the Crown by virtue of the binding force of the king's order in council.

Moreover, Elizabeth's right by acknowledged genealogical priority carried the sanctity of prescription, which no legislator can bestow. She fulfilled the criteria for kingship both on the monarchy's terms and those of the traditional system, which was the basis for the constitutional monarchy.

Kamehameha III, after all, in establishing in council, the pool of eligibles for the throne, preserved the "constitutional or prescriptive right" to rule of the person or persons of the highest chiefly descent, as noted by Judge-Historian Abraham Fornander in *An Account of the Polynesian Race*vol. II p. 64, under the traditional and natural constitution of the Hawaiian Nation.

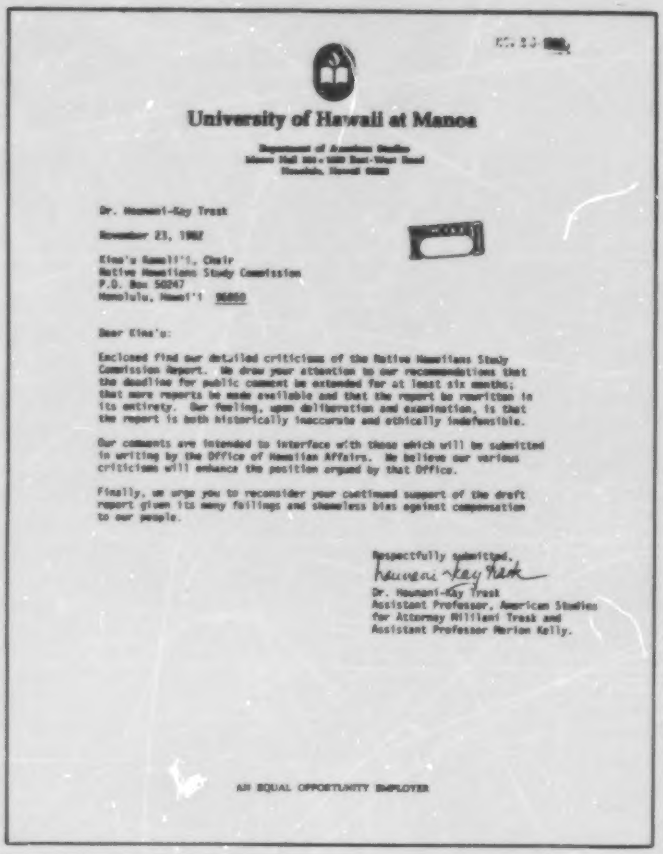
Under these circumstances, there would either be no interregnum, as in the case of the accession of Kamehameha V, or election by Parliament would be reduced to a method of installation, which might have been the case in Lunalilo's accession had his preemptive right (as an eligible) not been contested by Kalakaua, another eligible in the pool.

At any rate, since a preponderance of documented proof supports Elizabeth Kekaaniau Pratt's exclusive right to succeed Liliuokalani, I seriously doubt any study that purports to understand and take into account the law of succession of the Hawaiian monarchy can deny or disregard Mrs. Pratt's title to the Crown without considerable loss of credibility.

Respectively submitted,

Rory Soares Toomey

Rory Soares Toomey
Attorney At Law



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University of Hawaii at Manoa

Department of American Studies
Moore Hall [illegible] • 1890 East-West Road
Honolulu, Hawaii [illegible]

Dr. Haunani-Kay Trask

November 23, 1982

Kina'u Kamali'i, Chair
Native Hawaiians Study Commission
P.O. Box 50247
Honolulu, Hawai'i 96850

Dear Kina'u:

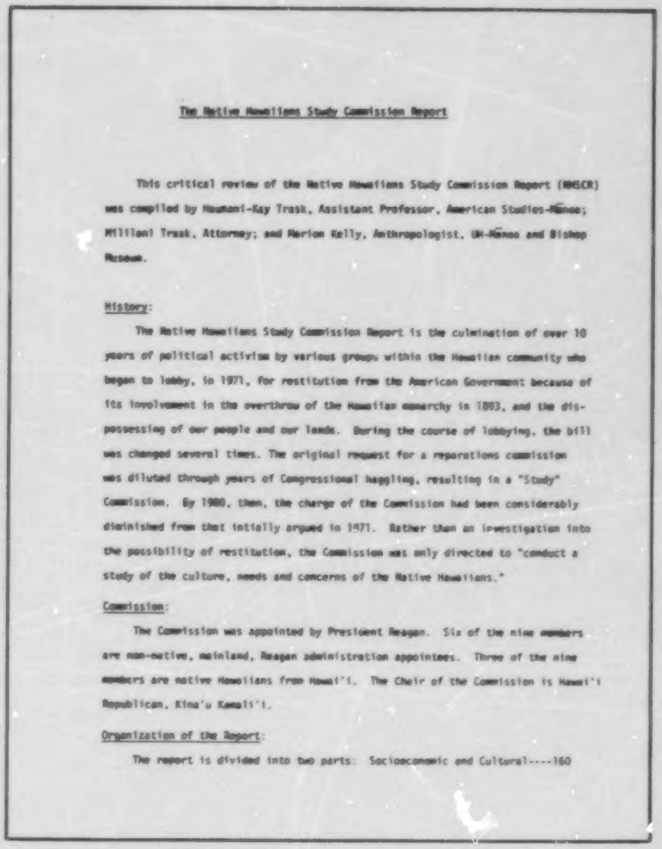
Enclosed find our detailed criticisms of the Native Hawaiians Study Commission Report. We draw your attention to our recommendations that the deadline for public comment be extended for at least six months; that more reports be made available and that the report be rewritten in its entirety. Our feeling, upon deliberation and examination, is that the report is both historically inaccurate and ethically indefensible.

Our comments are intended to interface with those which will be submitted in writing by the Office of Hawaiian Affairs. We believe our various criticisms will enhance the position argued by that Office.

Finally, we urge you to reconsider your continued support of the draft report given its many failings and shameless bias against compensation to our people.

Respectfully submitted,
Haunani-Kay Trask
Dr. Haunani-Kay Trask
Assistant Professor, American Studies
for Attorney Mililani Trask and
Assistant Professor Marion Kelly.

AN EQUAL OPPORTUNITY EMPLOYER



The Native Hawaiians Study Commission Report

This critical review of the Native Hawaiians Study Commission Report (NHSCR) was compiled by Haunani-Kay Trask, Assistant Professor, American Studies-Mānoa; Mililani Trask, Attorney; and Marion Kelly, Anthropologist, UH-Mānoa and Bishop Museum.

History:

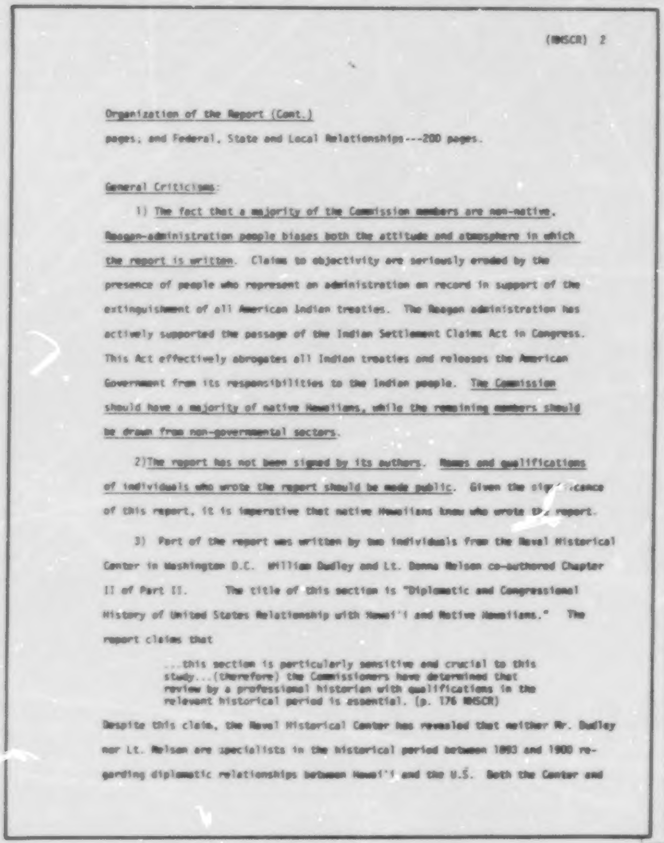
The Native Hawaiians Study Commission Report is the culmination of over 10 years of political activism by various groups within the Hawaiian community who began to lobby, in 1971, for restitution from the American Government because of its involvement in the overthrow of the Hawaiian monarchy in 1893, and the dispossessing of our people and our lands. During the course of lobbying, the bill was changed several times. The original request for a reparations commission was diluted through years of Congressional haggling, resulting in a "Study" Commission. By 1980, then, the charge of the Commission had been considerably diminished from that intially argued in 1971. Rather than an investigation into the possibility of restitution, the Commission was only directed to "conduct a study of the culture, needs and concerns of the Native Hawaiians."

Commission:

The Commission was appointed by President Reagan. Six of the nine members are non-native, mainland, Reagan administration appointees. Three of the nine members are native Hawaiians from Hawai'i. The Chair of the Commission is Hawai'i Republican, Kina'u Kamali'i.

Organization of the Report:

The report is divided into two parts: Socioeconomic and Cultural----160



Organization of the Report (Cont.)

pages; and Federal, State and Local Relationships---200 pages.

General Criticisms:

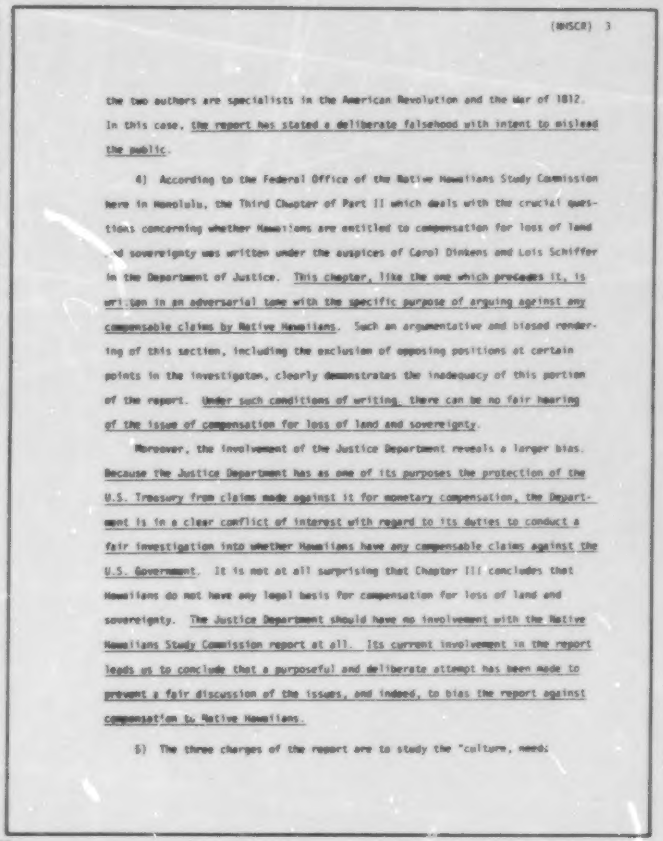
1) The fact that a majority of the Commission members are non-native, Reagan-administration people biases both the attitude and atmosphere in which the report is written. Claims to objectivity are seriously eroded by the presence of people who represent an administration on record in support of the extinguishment of all American Indian treaties. The Reagan administration has actively supported the passage of the Indian Settlement Claims Act in Congress. This Act effectively abrogates all Indian treaties and releases the American Government from its responsibilities to the Indian people. The Commission should have a majority of native Hawaiians, while the remaining members should be drawn from non-governmental sectors.

2) The report has not been signed by its authors. Names and qualifications of individuals who wrote the report should be made public. Given the significance of this report, it is imperative that native Hawaiians know who wrote the report.

3) Part of the report was written by two individuals from the Naval Historical Center in Washington D.C. William Dudley and Lt. Donna Nelson co-authored Chapter II of Part II. The title of this section is "Diplomatic and Congressional History of United States Relationship with Hawai'i and Native Hawaiians." The report claims that

> ...this section is particularly sensitive and crucial to this study...(therefore) the Commissioners have determined that review by a professional historian with qualifications in the relevent historical period is essential. (p. 176 NHSCR)

Despite this claim, the Naval Historical Center has revealed that neither Mr. Dudley nor Lt. Nelson are specialists in the historical period between 1893 and 1900 regarding diplomatic relationships between Hawai'i and the U.S. Both the Center and



the two authors are specialists in the American Revolution and the War of 1812. In this case, the report has stated a deliberate falsehood with intent to mislead the public.

4) According to the Federal Office of the Native Hawaiians Study Commission here in Honolulu, the Third Chapter of Part II which deals with the crucial questions concerning whether Hawaiians are entitled to compensation for loss of land and sovereignty was written under the auspices of Carol Dinkens and Lois Schiffer in the Department of Justice. This chapter, like the one which procedes it, is written in an adversarial tone with the specific purpose of arguing against any compensable claims by Native Hawaiians. Such an argumentative and biased rendering of this section, including the exclusion of opposing positions at certain points in the investigaton, clearly demonstrates the inadequacy of this portion of the report. Under such conditions of writing, there can be no fair hearing of the issue of compensation for loss of land and sovereignty.

Moreover, the involvement of the Justice Department reveals a larger bias. Because the Justice Department has as one of its purposes the protection of the U.S. Treasury from claims made against it for monetary compensation, the Department is in a clear conflict of interest with regard to its duties to conduct a fair investigation into whether Hawaiians have any compensable claims against the U.S. Government. It is not at all surprising that Chapter III concludes that Hawaiians do not have any legal basis for compensation for loss of land and sovereignty. The Justice Department should have no involvement with the Native Hawaiians Study Commission report at all. Its current involvement in the report leads us to conclude that a purposeful and deliberate attempt has been made to prevent a fair discussion of the issues, and indeed, to bias the report against compensation to Native Hawaiians.

5) The three charges of the report are to study the "culture, needs

and concerns" of the native Hawaiians. One third of the report is missing, namely the Culture and Religion sections. Given that an understanding of Hawaiian culture and religion are essential to an understanding of ancient land tenure, and thus in turn to the question of compensable claims for loss of land, the exclusion of these sections for public comment renders the report seriously inadequate. Moreover, the contemporary concerns of native Hawaiians regarding the survival of their culture and religion are also not addressed. Neither are questions of religious rights addressed, especially the problems surrounding the protection of Hawaiians under the Freedom of Religion Act. Given the importance of these questions (eg. the rights of Hawaiians to practice their religion on Kaho'olawe Island), failure to include a discussion of them increases the inadequacy of the report.

6) There is no discussion of the question of native Hawaiian political rights, for example, traditional rights such as fishing, access, gathering. Given that Hawaiians have been arrested for practicing these rights in the modern period, a discussion of their importance is mandatory.

7) There is no serious discussion of the two Federal trusts which Hawaiians have with the Federal government, namely the Hawaiian Homes Trust and the ceded lands trust in the Admissions Act. The mere appending of the Department of Interior's Audit Report on Hawaiian Homes is insufficient. Moreover, the report does not include a discussion of the informational report by the Hawai'i Advisory Committee to the U.S. Commission on Civil Rights entitled "Breach of Trust? Native Hawaiian Homelands." There is no discussion of the question of the ceded lands trust as exhaustively studied by Mililani Trask in her report for Alu Like, Inc. entitled A Study of Section 5(f) of the Admission Act of the State of Hawai'i.

6) There is no discussion of the various political struggles of the native Hawaiian people over the past 12 years regarding their birthrights to the land, their rights of self-determination as a political entity (Hawaiian Nationalism),

and their struggle to preserve and assert their cultural integrity, including their indigenous religion. The report should include an extensive section dealing with the following struggles but not limited to them: Kalama Valley, Halawa Stadium, Waimanalo Homesteads, Hale Mohalu, Kaho'olawe, Nawiliwili-Niumalu-Nukoli'i, Waianae Deep Draft Harbor, Kaluakoi on Moloka'i, Waiahole-Waikane, Sand Island, Hilo Airport, Kukailimoku Village, Mokauea Island, Save Our Surf, Makena Beach on Maui, Hana Federal lands on Maui. The purpose of addressing these struggles is plainly to illustrate the deep concern of many Hawaiian communities over the past decade regarding their rights---political, cultural, social, civil, and economic. Exclusion of a section on these community efforts gives the appearance of a lack of interest by Hawaiians in their own affairs, supporting the report's attitude that Hawaiians care very little about their present state of affairs.

9) The report gives no evidence of the numerous hours of oral testimony that was delivered by the Hawaiian public at several State-wide hearings. There is also considerable ommission of other testimony that was written. Our conclusion is that the Commission did not take their charge seriously nor did they give sufficient attention to the testimony of hundreds of Hawaiians.

10) Finally, we feel that the time for public review is much too brief, and that the miniscule number of reports that were written forecloses the possibility of serious public discussion of the report. We recommend a 6 month extension for public comment, and a reissuing of the report in substantial quantity to allow the public access to its findings.

Specific Criticisms:

1) There is a general bias throughout the report toward the supremacy of Western culture. For example, when writing of education in Hawai'i, the report states on p.31 that "formal education in Hawai'i began with the arrival of the

missionaries in 1820." This is a factual error. It is not "education" which began with the missionaries, it is "formal Western education" which began with the missionaries. The distinction is not only accurate but also very meaningful. The report attempts to give the impression that Hawaiians did not value education since they had none of their own. In fact, Hawaiians had their own system of education which served them remarkably well. They were the finest navigators, agriculturalists, and fishermen in the Pacific. They also practiced a complex cultural and political system that allowed them to flourish for over 1500 years. This kind of bias is present in various parts of the report where ignorance of Hawaiian ways is combined with a Western ethnocentrism to produce a larger image of a stereotyped "ignorant" primitive. Other examples follow. On p. 115, the discussion of Kamehameha III is filled with biased judgments about the king's behavior--it is referred to as "licentiousness", while the revival of native culture in opposition to the missionaries is referred to as "heathenish." This kind of language has no place in a report which has pretensions to being objective. Moreover, there is no discussion of the Hawaiian point of view, and the missionaires are praised when in fact they served as the bringers of American imperialism. For example, there is no discussion of white racism, nor of Manifest Destiny as American policies of colonialism. Given that white dominance, especially of the American variety, has been one of the controlling factors in modern Hawai'i, the exclusion of a lengthy, integrated discussion of this topic can only be purposeful. At one and the same time, the report is biased against Hawaiians (describing them in the above language) while also manifesting a strong bias towards the West (the missionaries, the military, the American government). In no way can this report be seen as objective or thorough. When such historical works as Lawrence Fuch's Hawai'i Pono are excluded from any discussion of racism, we believe there has been a deliberate attempt to give a false rendering of both Hawaiian history and the involvement of Americans and America in bringing about the current conditions of

oppression for Hawaiians.

2) Statistics: This section is both poor, in terms of giving an accurate picture of the present state of Hawaiians, and dishonest in some cases because it appears that data was purposefully manipulated to give a false impression. Thus, some data has been excluded while other data has been manipulated. We are not statisticians, nor do we claim to comment on this entire section. We recommend that this section be redone with qualified personnel writing the analyses and using current data. We have the following comments to submit:

a)income---p.38: this section claims that in 1969, the median income of Hawaiians was higher than that of Caucasians. This is misleading, although on the face of it accurate, because military income is included in the Caucasian income which lowers the range considerably. Data that should be used here are 1975 OEO census update information, not the 1969 information. The 1975 information will show that Hawaiian and part-Hawaiian personal income was well below both the Caucasian and State-wide figures. Family income was also lower. (Hawaiian--$6049; State $7388).

b) criminal justice---p.42: the population estimate in Table 23 for Hawaiian/Part-Hawaiian is the crudest estimate which could have been used. The most sophisticatcd survey is the Health Surveillance Program ---a very carefully done enumeration---which shows over 9,000 Hawaiians and over 166,000 part-Hawaiians. The total is more than 175,000 or more than 18% of the total population. Thus the actual figure for population is more than 50% higher than the figure used in Table 23. This section does not include any figures on incarceration. A study done by University of Hawai'i sociologist Jean Kassebaum shows that nearly 60% of the prison population is Hawaiian/Part-Hawaiian. Nor are there figures here for the number of Hawaiians in Federal prison. These statistics are crucial since they reveal racism in sentencing and other judicial policies as well as the overall state of oppression of Hawaiians.

c) Health---infant mortality---p. 47: the report purposefully chose a year, 1980, in which the infant mortality was lower. The impression which is given, as stated by the report itself, is that "by 1980, the situation (regarding infant mortality) had improved considerably." This statement is false since the rate for 1979 was over 16 per 1000 live births, while the rate for 1981 was 12 per 1000 live births---both years are over the State-wide rate. Thus, in order to state that the infant mortality rate has improved considerably for Hawaiians/Part-Hawaiians a study of the years between 1963 and 1981 would have to be made. Individually, these years show a consistently high infant mortality rate for Hawaiians over the rest of the State's population.

c) acute and chronic conditions---p.54: the cancer rate for Hawaiians should include data from the Hawai'i Tumor Registry 1973-1977 which shows that Hawaiians/Part-Hawaiians have the highest rate of cancer for stomach, breast, lungs, uterus and other categories, and that for lung cancer, the rate for Hawaiians is increasing at the fastest rate of all ethnic groups. Moreover, there is a national statistic, which we have not been able to locate, that was issued in the local papers in November of 1981 stating that Hawaiian women have the highest cancer rate in the United States.

d) socio-political profile---p.65: the report states that "it is very difficult for any one group to maintain discriminatory attitudes towards another or to become dominant over others." This is a clear falsehood given the dominance of whites in Hawai'i since the overthrow. Again, Lawrence Fuchs' respected history will confirm this racism. ---p. 67: this entire section fails to discuss how native Hawaiians were excluded by property qualifications and coercion from participating in the political realm. Again, racism is not discussed at all. ---p.73: the report states that"candidates for political offire are not helped by appealing to one ethnic group over another". This is also a falsehood since elections are constantly characterized by ethnic appeals; in modern Hawai'i

these appeals have been to the growing Japanese electorate.

e) Education---p.81: the report is biased to the point of racism by inclusion and ommission. For example, Hawaiian culture is referred to as "primitive" when the term should be "indigenous". On p. 83, there is discussion of the elite status and exclusionary policy of Punahou without a single mention of that policy as white supremacist. Finally, there is exclusion of statistics, readily available at the Affirmative Action office at the University of Hawai'i, which show that the number of Hawaiian professors at the University is so small as to raise questions of bias. This pattern of discrimination continues when figures for student enrollment are examined at the University. Hawaiians are clearly underrepresented in both faculty and student ranks.

History (Chapter V):

p. 107---Western bias: the report states that the maka'ainana lived in an "intolerable" condition because of their placement at the bottom of Hawaiian society. This is false and vicious. Hawaiian commoners enjoyed more rights to the land in precontact Hawai'i than under the private property system brought by the West. Sources here should include the works of Marion Kelly, and Native Planters by Handy and Handy with Pukui.

p. 107---Western bias, plus falsification of Hawaiian society: the report states that "Ancient Hawai'i was governed by a feudal system." This is repeated many times throughout the report, especially in Chapter II and III of the second Part. This is a false rendering of the Hawaiian land tenure system which did not include the following feudal structures---obligatory military service; bondage to the land; ownership by the kings and chiefs. In fact, in ancient Hawai'i, the king did not own the land nor did the chiefs. If the historians who wrote the report understood Hawaiian religion, they would know that only the gods "own"

land, the king and chiefs are merely trustees and supervisors. The people are the beneficiaries. By arguing that Hawaiian land tenure was feudal, the report can then make the arrival of private property during the Great Mahele appear to be the democratic effects of Westernization. In fact, private property brought by Americans actually alienated the people from the land.

p. 117---Western bias, misstatement of fact: While it is true that the missionaries were prohibited from acquiring land while they were members of the American Board of Commissioners for Foreign Missions, they in fact began to acquire land in enormous quantities after they left the mission. Here, the bias towards the missionaries is extreme in this section for two reasons: they are removed of responsibility for bringing diseases and cultural degradation that hastened the decline of Hawaiians, and they are elevated to the point of actually appearing as redeemers of the people. The facts, however, are otherwise. Missionaries are responsible for taking land, for bringing death and disease, and for imposing a foreign religion which severed the Hawaiians' relationship to the earth. They are the harbingers of colonialism in Hawai'i, and their descendants controlled most of the sugar plantations---the Big Five corporations of Castle and Cooke, Alexander and Baldwin, and C. Brewer all had missionary connections. Moreover, there needs to be a discussion of the role of missionary-descended individuals in the overthrow of the monarchy, and particularly in the creation and functioning of the Provisional Government.

p.121---Western bias: there is no discussion of Manifest Destiny as an outgrowth of American imperialism. This exclusion cannot but be deliberate. We suggest the Commission address the question of American imperialism from a serious scholarly perspective, examining works such as Richard Drinnon's Facing West: The Metaphysics of Empire-Building and Indian-Hating.

Part II:

Chapter I, Part II: This section is so biased and inaccurate, we have re-written it. This portion of our criticism was compiled by Marion Kelly.

"Before 1778, and for another 50 or so years after that, Hawaiians controlled, managed and used their own land. We know that they did, because before foreigners came, only Hawaiians lived in the Hawaiian islands. They had a flourishing civilization based on agriculture and fishing. Their relationship to the land was based on traditional use rights to all the resources of the land and the sea. The Hawaiian farmers' use rights to the land were established by the hundreds of thousands of Hawaiians through the centuries who spent their lives cultivating the soil and making it productive.

"It was Hawaiians who managed the land. It was Hawaiians who built large, agricultural terraces and irrigation systems. It was Hawaiians who built fishponds to provide more food. Hawaiians were the only people here. They were the "single landowning entity" with "actual and exclusive use and occupancy" of the land in all the Hawaiian islands. (Quoted phrases are from the report) Hawaiians were present in Hawai'i for 1500 years before foreigners arrived. Among the foreigners were Americans. They brought the Western system of private ownership of land. It was that system that took the land away from the Hawaiians in the mid-1800s. Later, it was Americans who overthrew the Hawaiian government by force of arms in 1893.

"In early Hawai'i when Polynesians first arrived---the time of La'ila'i, of peace and calm---people all worked together. No one was above or below. In later times, as the population grew, the elders became the chiefs who managed the resources that Hawaiians attributed to the gods. That which was created by the gods, they reasoned, belonged only to the gods. As administrators of the gods' domains, the chiefs assigned parcels of land to farmers to cultivate. When the population of a land increased, the chiefs and engineering experts---the kahuna---planned larger gardens. The people built these gardens and the large irrigation systems to provide more water for the gardens to make them more productive. The chiefs did not act as "owners" of private property. They acted as elders of families and communities. The chiefs were responsible for the welfare of all their people. A good chief took care of his people. And the people took care of their good chiefs. The land was not the private property of chiefs---they were only the caretakers of every Hawaiians' use rights to the land and its resources.

"Hawaiians had a full and well-developed civilization. They had their own distinctive language, literature, music, dance, art, kinship, social structure, religion, stable work relationships, economy, and island territory. They were a unified group. They were geographically isolated here from non-Polynesian people.

"When the first foreigners came in the late 18th century, these invaders began to influence and change the lives of the Hawaiian people. Most of these changes were to suit the needs of the foreigners. Often they were made under the threat of gunboats of powerful Western countries. Fighting among themselves, these Western countries were seizing colonies, taking away the sovereignty of small nations all over the world, many of which were in the Pacific. These are facts of history which cannot be denied.

"The overthrow of the Hawaiian government in 1893 by American sugar businessmen with the protection of the United States gunboat, U.S.S. Boston, was only one in a long series of foreign intrusions into the affairs of the Hawaiian Kingdom. Earlier intrusions led up to the overthrow. A few of these are:

1. In 1794, the English Captain George Vancouver influenced the Hawai'i chiefs to support one chief over all others. Vancouver actively supported Kamehameha I as that chief.

2. French Captain Louis de Freycinet directly influenced the Hawaiian

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Kingdom in 1819, soon after the death of Kamehameha I. He counselled the chiefs at Kawaihae that France and England would place their power in support of Kamehameha II, as the heir of his father.

3. Between the years 1824 and 1844, over 50 man-of-war gunboats from colonial countries came to the Hawaiian Islands. Each used threats of take-over in order to force the small Hawaiian nation to do its bidding.

4. In 1843, the British actually did take over. They ruled the Islands for 5 months.

5. In 1849, the French occupied the town of Honolulu. They smashed the contents of government buildings and forced the Hawaiian Government to do what they demanded.

6. The intimidated Hawaiian king and chiefs sought the counsel of Americans. American missionaries seized the opportunity. They began to work inside the Hawaiian government to change it into a likeness of Western governments. At the same time, they worked to have the Hawaiian Islands annexed by the United States as early as 1853, in order to gain certain economic advantages for themselves.

7. It was the American missionaries who changed the Hawaiian land tenure system into the American system of private ownership of land. This was done to provide the land for American enterprise and safe investment schemes for American money.

8. It was the Americans, Rev. William Richards and Dr. Gerrit P. Judd, who drew up the plan called the mahele. They convinced the Hawaiian king and the chiefs of the Privy Council to accept it. They told the Hawaiians that if they didn't convert to private ownership of land, any foreign invader that annexed the Hawaiian Islands would not recognize Hawaiian land rights. They said a foreign invader would take over everything, leaving the king, chiefs, and Hawaiian people landless.

"In 1847, American William Little Lee, a member of the Board of Commissioners to Quiet Land Titles, promised the King that he would be able to have his own "private lands, as his own individual property, subject only to the rights of the tenants..." After the king's lands were set aside, then, the remaining lands were to be divided, Lee wrote "one third shall be set aside as the property of the Hawaiian Government...one third to the Chiefs ...and the remaining third to the tenants, the actual possessors and cultivators of the soil..." (Ltr. Lee to Kam. III, Dec. 14, 1847).

"As it worked out, the king, chiefs, and government got their lands,

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but the farmers and fishermen, who comprised most of the people, never received their rights to the land and its resources. These were never fully given to the maka'ainana. The people's use rights in the Crown lands, and in the Government lands, and in the chiefs lands were never fully recognized, and thus never fully extinguished.

Less than one percent of the land went to the people. Only about 25% of the people received land. The remaining 75% of the Hawaiian people never received their lands. In fact, they were made landless by the mahele and the kuleana act which followed it in 1850.

Today, as a result of those events, 95% of Hawai'i's lands are owned and controlled by only 75 major landowners."

Chapter II and Chapter III.

We concur with the official reply made by Melody MacKenzie on behalf of the Office of Hawaiian Affairs to these two chapters. In addition, we would like to stress two points made at the beginning of our critique: this section is written in an adversarial tone, with bias and purpose. The involvement of the Justice Department raises serious questions of credibility and fairness. And the role of the Naval Historical Center, including the deliberate falsehood that Mr. Dudley and Lt. Nelson are qualified historians in this particular period, forces us to the conclusion that this section was written in order to prevent any compensable claims on the part of Native Hawaiians.

We would like to add the following comments to those of Ms. MacKenzie.

1) The findings that aboriginal title was extinguished by acts of the Hawaiian government before 1893 are false in that the Queen (Lili'uokalani) ceded the Crown lands to the U.S. which by the acts of its Minister Stevens surrendered the sovereignty of the Hawaiian kingdom to the Provisional government.

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2) Both tests for native title---aboriginal title and recognized title---were developed in terms of Indian case law and history. As such, these tests are not applicable to Hawaiian history or legal developments. Hawaiian people are not Indians. Consequently, there is no way that native Hawaiians would historically or culturally meet said tests. The Indian tests are only usable as analogies, not as absolute tests of title.

3) The report states that sovereignty lost by Indian tribes was lost due to their dependent status and the fact that Congress can take away sovereignty without compensation under the 5th Amendment because sovereignty is not a compensable property right.

The above is correct regarding Indians because Indian lands were lost by "discovery and occupation" and because Congress under the U.S. Constitution has authority to deal with Indian Nations through treaty laws. This creates a wardship relationship between Indians and the Federal government. But Hawaiians ceded their lands (under the Queen) protecting their property rights and setting the foundation for the creation of two trusts which attach to the lands of the State. Consequently, what emerged in Hawai'i was a trust obligation and a property right. Inasmuch as said obligation is breached, native Hawaiians have a compensable claim.

4) The report states that there is no trust relationship between the United States and Native Hawaiians that has been established by U.S. law.

The above finding is based upon the assumption that any trust relationship between the United States and Native Hawaiians would be "very similar to the trust relationship between the Federal Government and U.S. Indian tribes." This is false for reasons already stated above.

Finally, a trust relationship does indeed exist between the U.S. government and Native Hawaiians and has been acknowledged by the U.S. Department of Justice in an Amicus Curiae brief to the U.S. Federal Court in the Keaukaha-Panaewa case.

5) The Stateof Hawai'i through its Executive has acknowledged that a trust

relationship does exist between native Hawaiians and the U.S. Government, and that, moreover, the actions of the latter regarding fulfillment of that trust have been "questionable." This finding is included in the Draft Report of the Native Hawaiians Study Commission at page 325; and makes specific reference to the Inspector General's Audit Report contained in the Draft Report of the Commission at page 253. Quoting from page 325:

> The U.S. Congress created the HHCA. The federal government had jurisdiction over its implementation when Hawai'i was a Territory and retained trust responsibilities outlined in the HHCA and Admission Act that are still in effect.
>
> The basis for interpreting the U.S. Department of the Interior (USDI) role as "ministerial" in a 1972 memorandum of DHHL is not clarified. The draft report does not discuss whether this passive role is still considered adequate or whetherthe federal government's trustee responsibilities are more extensive in scope and active in nature.
>
> The draft report describes specific actions by the federal government that are questionable without recommending corrective actions. This refers to the USDI approval of HHCA land exchanges and the illegal use of 1,356 acres at Lualualei, O'ahu, by the U.S. Navy.

6) The Hawaiian Homes Commission Act of 1920 and the Admissions Act of 1959, section 5(f) contain specific references to the U.S. trust responsibility,including the role of the U.S. to bring suit for breach of trust.

It is our conclusion that the draft report of the Native Hawaiians Study Commission is a thinly veiled attempt to provide a basis by which the U.S can escape its trust responsibilities and withhold compensation for its acts in breach of trust. Compensable acts which should be dealt with include:

A. Failure of the U.S. to monitor abuses in the State of Hawai'i's management of Hawaiian Homes lands. This is a breach which the Hawai'i Advisory Committee to the U.S. Commission on Civil Rights (October, 1980) suggested be enforced by way of litigation brought by the U.S. Department of Justice.

B. Transfers by the U.S. of Federal Surplus lands pursuant to federal laws applicable to mainland United States in abrogation of the procedures established in the Revised Conveyance Act of December 23, 1963, Pub L 88-233, 77 Stat 472. One recent example here is the attempted sale of Fort DeRussy in Waikiki by the

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Reagan administration. No statute can alter the existing trust relationship or create wardship.

It is our opinion, and that of the undersigned organizations as well, that the Native Hawaiians Study Commission report is inadequate, biased, and written by unqualified individuals who have clear interests in favor of finding against Native Hawaiians.

We recommend that the report be rewritten in its entirety by qualified individuals who have access to all relevant materials including those in the Hawai'i archives and those written in the Hawaiian language.

We further recommend that the deadline for public comment be extended for at least six months to enable the holding of community forums.

We further recommend that more reports be made available to the Hawaiian public here in Hawai'i and on the mainland as well.

Finally, we wish to state unequivocally that it is our informed judgment that Hawaiians have compensable claims based on the U.S. role in the overthrow of the Hawaiian monarchy, including the ceding of lands to the U.S. Minister, and that the U.S. has an ethical and moral responsibility to honor those claims. Additionally, as we have argued above and as Melody MacKenzie has argued through the Office of Hawaiian Affairs, we believe that native Hawaiians have compensable claims based on U.S. legal responsibility.

Haunani-Kay Trask 23 November 1982

Concurrence with these findings by:

Ke Hawai'i Makou---Kawehi Kanui-Gill

The Protect Kaho'olawe 'Ohana---[illegible]

and Dr. Emmett Aluli

PR 14

An Historical Over-View of Hawai'i: Pre-Contact to the Present

Written on Contract for the Office of Hawaiian Affairs

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Preface

The modern history of Hawai'i, from the late 18th century through the last quarter of the 20th century, is similar to that of other non-European societies penetrated and completely transformed by an expansionist West seeking resources, markets, religious converts, military bases, and eventual political dominion. For the indigenous people of Hawai'i, the story of death, land alienation, and colonization can be likened to that of Indians on the American continents. And responsibility, in both cases, must be shared by the American government as well as her European counterparts for the subjugation of the native peoples.

Scholars of Hawaiian history have recorded how Western contact (and American predominance after 1810) resulted in economic chaos, spiritual devastation, and physical death to native Hawaiians. Within forty years after contact, introduced diseases had reduced the indigenous population by more than half, from 400,000 to 140,000. By 1850, the population was again halved, the land base was effectively alienated through private property land tenure via the imposition of Western law, and most Hawaiians,under the influence of American missionaries, had converted to an alien religion, Christianity. With foreigners came foreign values: the primacy of man over nature, of the individual over the collective, of sexual repression over sexual expression, of private gain over social welfare, in a phrase, the primacy of Western values over Hawaiian culture. When the Hawaiian Queen was overthrown with the aid of U.S. marines in 1893, a provisional government was established with the express purpose of seeking annexation to the United States. Finally, with annexation in 1898, 75 years of American economic and ideological domination in Hawai'i was secured by territorial incorporation.

Thus as Hawai'i entered the 20th century, her native people had been reduced and subjugated, their birthrights to the land and its resources restricted by capitalist practices of private property and finally repudiated by the overthrow of their government and subsequent political domination by America. As the century progressed, the plight of native Hawaiians worsened with their new legal status as 'wards' of the American government through two Federal trusts established in the Hawaiian Homes Act (1920) and the Admissions Act (1959). Far from acknowledging the cultural and historical rights of indigenous Hawaiians, these trusts confined them to a much diminished and much abused land base. For example, in neither trust is there any recognition on the part of the Federal or State governments that native Hawaiians have the historical right of political and economic self-determination, a right which America has long held central to its tenets of democracy and consent of the governed. Neither is this right likely to be acknowledged as long as the United States refuses to admit culpability, both moral and legal, in the colonization of the Hawaiian Islands.

The following historical summary is intended as an overview of the sweep of Hawaiian history with special focus on the ancient culture of Hawaiian society, the fatal results of Western impact, particularly American domination, and the more recent response by native Hawaiians to contemporary historical conditions. In the interests of presenting the most comprehensive picture possible given severe time constraints, the organization of material follows both a chronological and thematic framework. Section I will deal with precontact Hawai'i; Section II will present an economic and political history from 1778-1983

This summary is of necessity brief, indeed, too brief, given the enormity of the subject. Had there been more time and more commitment on the part of the Federal government there would have been a larger input by scholars and writers living in Hawai'i. This section would be more probing, less general, its many points buttressed by longer subsections based on a wealth of material left virtually untouched.

However, the broad outlines are sufficient to establish a firm foundation for our argument: American overseas imperialism is responsible for the colonization of Hawai'i. Once established by this report, this historical fact raises questions about America's legal and moral obligations to the native Hawaiian people. The recommendations are an attempt to describe the nature and the consequences of these obligations, including restitution in land and monies as well as some form of self-determination for native Hawaiians.

Section I.

The Pre-Contact Period

Prefatory Note

Virtually all scholarly histories of Hawaii begin in 1778 with the fateful encounter of Captain James Cook and the Hawaiian people.[1] Human society has in fact existed in the Hawaiian Islands since sometime before 400 A.D.[2]. Thus, the conventional historical practice of choosing 1778 as the starting point for Hawaiian history is comparable to writing a history of the United States and ignoring everything that occurred before 1957.

It should not be surmised that this historical practice can be explained by mere oversight. For history, as Lord Acton long ago observed, "is not a web woven with innocent hands." By beginning their histories only with the arrival of Western civilization, historians reveal immediately the implicit assumption of Western society whenever it encounters indigenous people and their cultures: such people and cultures are important only insofar as they help or hinder the actions of the invader.

By beginning a history of Hawaii with the indigenous people, on the other hand, a writer is doing more than signaling his or her respect for the integrity of early Hawaiian society. The Western invasion of Hawaii took many forms--commercial, bacteriological, religious, and military--and left in its wake the rubble of human and social devastation. Only by first understanding something of the world that was, can we even hope to understand the shameful tragedy of the world that was lost.

Section I.

I

Over eleven centuries before Columbus accidentally encountered in his voyages one of the largest land masses on earth, large numbers of Polynesian sailors, employing navigational skills that still astonish students of the art, had crossed more than two thousand miles of ocean to find new lives for themselves and their families on the most isolated archipelago in the world--Hawaii. Around the time of the rise of Constantine, but before the fall of the Roman Empire--during the time of the Talmud's compilation, but well before the birth of Mohammed; before there existed an England, an English language, or an Anglo-Saxon people--Hawaiian society was already taking shape. It would continue to do so, with very little interruption from the outside world, for more than fourteen hundred years.

During this time--stretching roughly from the era of the earliest barbarian attacks on Rome to that of the American Revolution--society changed a great deal in both Europe and Hawaii. But the paths of change were very different. Through all the buffetings of war and social upheaval, trade and cultural exchange, two powerful strands in the fabric of European culture came to shape the world view of its people: the religious strand that was Christianity; and the economic strand that was capitalism. Spared the great tumults and dislocations of Europe's history, and growing undisturbed out of an entirely different array of primary cultural and cognitive principles, Hawaii's people created a society that was in many ways the antithesis of the European scheme. In several respects, however, Hawaiian society had remarkably much in common with that of other peoples in other parts of the non-European world.

In a brilliant work of scholarly synthesis, anthropologist Stanley Diamond some years ago proposed a typology of characteristics that distinguished indigenous societies from those of the modern West[3]. As a preliminary guide to the structure of Hawaiian society before Western contact, portions of Diamond's model are worthy of scrutiny.

1. First, the *economics* of indigenous societies, Diamond argues, are generally "communal"--that is, "those material means essential to the survival of the individual or the group are either actively held in common or, what is equivalent, constitute readily accessible economic goods." Even in those societies (such as that of late pre-contact Hawaii) where a class structure develops, Diamond notes, "it rarely results in the economic ruination of one group or individual by another." On the contrary, since it is economically non-competitive and "lacks a genuinely acquisitive socio-economic character," and since, even when a hierarchy develops, "production is for use or pleasure rather than for individual profit," such a society is one in which, for example, "no man need go hungry while another eats."

Money--that is, "an abstract, intrinsically valueless medium for appropriating surplus, storing value and deferring payment or delaying exchange"--does not exist in indigenous societies. Neither does the Western concept of economic private property "ownership." This latter point is particularly crucial to understanding pre-contact Hawaii, or any indigenous society, especially since it has so often been misunderstood or misconstrued by both advocates and critics of communal indigenous societies.

As Diamond points out, conventional ideas regarding "property" in indigenous societies do *not* mean (as Engels, for example, supposed) that everything in such societies, including wives and children, is owned in common; this idea, as he puts it, "conjures up a false image of an absolute, monolithic, social, economic and psychological collectivism." Nor, in the absence of this extreme, should we suppose the opposite--as some have--that even incorporeal things such as songs, magic spells, curing rituals, or spirits are "owned" by individuals. Both of these misconceptions result from an inability or unwillingness to consider a reality beyond the parameters of the Western world view. Both of them fail to recognize the middle ground that is repeatedly seen in the workings of indigenous societies: ownership can and does exist, but in a way that is *independent* of basic economic functions--that is, in Diamond's words, it "does not endanger and is irrelevant to the communal functioning of the economic base."

In sum, although possession is possible in indigenous societies, private "ownership" of economically essential goods--including, most importantly, land--is not. Such societies, as Diamond puts it, "uniformly possess a communal economic base; economic exploitation of man by man, as we know it in archaic and modern civilizations, is absent." As a result, "the expectations of food, clothing, shelter and work are not juridicial because they are unexceptional." As for the land, perhaps the eminent Harvard anthropologist Dorothy Lee said it best more than thirty years ago: "what is for us land tenure, or ownership, or rights of use and disposal, is for other societies an intimate belongingness," an attitude in which people "conceive of themselves as belonging to the

land, in the way that flora and fauna belong to it. They cultivate the land by the grace of the immanent spirits, but they cannot dispose of it and cannot conceive of doing so."[4]

2. *Leadership and social organization* in indigenous societies, like the economy, tends to be "communal and traditional," Diamond notes, "not political or secular." This is not to say that there are no leaders, but that the entire fabric of society--"all meaningful social economic and ideological relations"--is seen as synonymous with an integrated network of kinship. Even in relatively large-scale indigenous societies, such as those in Hawaii at the time of Western contact, "where hundreds of people may be said to descend from a common ancestor and the actual blood relationships may either be entirely attenuated or completely fictitious, people still behave toward each other as if they were kin." This, "the most historically significant" feature of indigenous society--the feature most commented on by anthropological observers--has no spatial or temporal limitations: the kinship network, the "personalism" of indigenous culture, "extends from the family outward to the society at large and ultimately to nature itself." Thus, Diamond notes, the people in such societies "live in a personal, corporate world, a world that tends to be a 'thou' to the subjective 'I' rather than an 'it' impinging upon an objectively separate and divided self."[5]

The consequence of such a world view for leadership in indigenous societies is that leaders are seen more as caretakers than as ultimate and unshakable authorities. There is rarely, if ever, a "king" in an indigenous society--and, indeed, the *absence* of a single, king-like autocratic figure is often said to be part of the definition of an indigenous society.[6] Leadership is divided and changeable; the various leaders' powers are limited and they have no divine claim to authority sufficient to deny the people their power to either abandon or depose them. Thus, "in a profound psychological sense," Diamond concludes, such societies "are democratic; though they are not reductively 'equalitarian.'"[7]

3. Cultural integration and social change in indigenous societies are invariably--in the root meaning of the word--conservative. To begin with, time is not marked off or measured in a mechanical, linear way; it is seen as cyclical and at one with the ecological rhythms of the natural world. There is no sharp cleavage between the physical and spiritual realms and thus no elevation of one realm to the detriment of the other. Diamond writes: "Between religion and social structure, social structure and economic organization, economic organization and technology, the magical and pragmatic, there are intricate and harmonious correlations."[8]

Moreover, guiding this framework of correlations is a code of life that Robert Redfield, in an classic explication, has called the "moral order"--in contrast to the "technical order" that guides modern Western society. In a society guided by "moral order" behavior is organized around ideas of what is "right" (rather than "useful" or "necessary" or "expedient"--terms which characterize the "technical order") and in a morally-ordered society "sentiments, morality, and conscience" determine the correctness of conduct.[9] Thus there is no sense of or yearning for religious or social "progress" (and, conversely, no fear of "backsliding"), no determination to pull the society out of imagined depravity, no endless debating over religious technicalities (in most indigenous societies there is no separate word for religion)[10] and no such thing as religious war. "The preacher of conversion and the preacher of moral regeneration are creatures of civilization," Redfield writes--noting for example that "for two and a half centuries a community of Tewa Indians have lived among the Hopi of First Mesa," totally maintaining their cultural integrity and, Redfield wryly observes, leaving no evidence "that Tewa and Hopi send missionaries to each other."[11]

Indigenous societies are, in Diamond's words, "systems in equilibrium" that "do not manifest the internal turbulence endemic in archaic or contemporary civilizations." Thus:

> society is apprehended as a part of the natural order, as the backdrop against which the drama of individual life unfolds. It is sanctified by myth, revealed in ritual, and buttressed by tradition. The social network is perceived as a more or less permanent arrangement of human beings vis-a-vis each other. Since the basic needs of food, clothing, shelter and...personal participation are satisfied...in a socially non-exploitative manner, revolutionary activity is, insofar as I am aware, unknown.

Thus, the individual in indigenous society "is a conservative":

> his society changes its essential form only under the impact of external circumstances or in response to drastic changes in the natural environment. Institutional disharmonies never reach the point of social destruction or, correlatively, of chronic, widespread individual disorganization.[12]

In short, in indigenous society the individual's world "is neither compartmentalized nor fragmented, and none of its parts is in fatal conflict with the others."[13] As a result of this complex interrelationship of entities, all the products of the natural and spiritual worlds are regarded with respect, all are possessed of power, and none can be dispatched, abandoned, or exploited in a mood of indifference.

Diamond's model, supported by an enormous array of other anthropological findings, can be boiled down to a paragraph:

> Indigenous societies tend to have communal economies. In such economies private ownership of the economic base--including the land--does not exist. Neither does the idea of profit or surplus accumulation in the Western sense, with the result that there is a remarkably even level of goods distribution; to the extent that food, clothing, shelter, and work are available to anyone, they are available to everyone. In those indigenous societies that have relatively permanent leadership positions (there are many that do not), such leaders are viewed as part of the overall kinship network and not as independent, secular, autocratic masters. There are no "kings" in indigenous societies and those people not in leadership positions can and often do depose or abandon leaders who betray their shared trust. Embracing every institution in indigenous societies is a recognition of the essential unity of existence, a sense of the interdependence of all things, and a belief in the ultimate permananence of moral tradition. The natural world, the spiritual world, and the world of humans are equally real, equally "alive" and subjective, and equally protected from casual exploitation.

So much for the model. How did the reality of Hawaiian society before Western contact compare with it? Apparently quite well.

II

We will have occasion in these pages to refer to pre-contact Hawaii as a subsistence economy--that is, an economy without a market and without a need for surplus production. Some writers, however, load this term with a bias when they read into its meaning the idea, in Pierre Clastres' words, of an economy that "permits the society it sustains to merely subsist," an economy that "continually calls upon the totality of its productive forces to supply its members with the minimum necessary for subsistence." Used in this way (not in the simple descriptive way in which we shall use it) Western historians of indigenous peoples have often displayed a remarkable tolerance for self-contradition: indigenous peoples, they find, live in precariously formed subsistence economies; and, indigenous peoples are lazy.

Now, as Clastres had pointed out, "one cannot have it both ways": either people in these societies do live in such subsistence economies and thus must, by definition, spend virtually all their waking hours in search of food; or they do not live in such subsistence economies and thus have time available for leisure and other pursuits.[14] In Hawai'i, the Western prejudice was in fact stood on its head: the people were neither lazy, nor did they live in a subsistence economy requiring an endless search for food. They had bounteous amounts of food available as a result of diligent and ingenious labor--and they also had a good deal of time available to pursue sporting, cultural, and artistic activities.

A number of things repeatedly impressed Westerners about Hawai'i during those first years of contact: the strong and well-proportioned bodies of the people, with their "remarkably pleasing countenances"; the neatness and cleanliness of their homes and persons; the orderliness of the society and the affection of the people for one another; the industriousness of the people, especially as demonstrated in their intensive and astonishingly productive cultivation of the land; the facility with which the men built and maneuvered their sea-going craft; and the vigor, discipline, and complex precision with which dance and sporting events were carried out.[15] None of this, of course, came about by accident. In an effort to understand this flourishing land and people, let us turn back to the social categories we previously excerpted from Stanley Diamond's typology.

1. The islands of Hawai'i are essentially enormous volcanic mountains projecting up out of the ocean. Thus, the economy of pre-contact Hawai'i depended primarily upon a balanced use of the products of this mountainous land and the sea. This accounts for the ingenious way in which the land was divided.

Each island, or mokupuni, was divided into separate districts known as 'okana. Each 'okana, which ran from the mountains to the sea, was then subdivided into ahupua'a, which themselves ran in wedge-shaped pieces from the mountains to the sea--and each ahupua'a was then divided into 'ili, on which resided the 'ohana (extended families) who cultivated the land. This, then, was the core economic unit in Hawaiian society. Here is how it operated, according to two of the most knowledgeable modern historians of ancient Hawaii:

> Between households within the 'ohana there was constant sharing and exchange of foods and of utilitarian articles and also of services, not in barter but as voluntary (though decidedly obligatory) giving. 'Ohana living inland (ko kula uka), raising taro, bananas, wauke (for tapa, or barkcloth, making) and olona (for its fibre), and needing gourds, coconuts and marine foods, would take a gift to some 'ohana living near the shore (ko kula kai) and in return would receive fish or whatever was needed. The fisherman needing poi or 'awa would take fish, squid or lobster upland to a household known to have taro, and would return with his kalo (taro) or pa'i'ai (hard poi, the steamed and pounded taro corm). A woman from seaward, wanting some medicinal plant, or sugarcane perhaps, growing on the land of a relative living inland would take with her a basket of shellfish or some edible seaweed and would return with her stalks of sugarcane or her medicinal plants. In other words, it was the 'ohana that constituted the community within which the economic life moved.[16]

Needless to say, there was no money (in Diamond's words, no "abstract, intrinsically valueless medium for appropriating surplus, storing value and deferring payment or delaying exchange") in pre-contact Hawaii, nor did there exist the economic concepts on which such a medium could be based. There was no idea of surplus appropriation, value storing, or payment deferral in pre-contact Hawaii--because there was no idea of financial profit from exchange; and thus, there was also no concept of economic exploitation. There was an annual tax levied by the ali'i, or chiefs (more about this in the following pages); however, "this was not levied individually on planters, but they were assessed by the haku [the head of the extended family] in proportion to the land cultivated and the crop."[17]

These various land subdivisions, in the words of one recent anthropologist, operated out of a decentralized "conical clan" social system that tolerated "competing politics" and was rooted in a tradition of economically independent ahupua'a.[18] The necessities of life--food, clothing, shelter--were never fought over because one's basic right to them was never questioned. Along with the right to work, these rights simply adhered to an individual as part of his or her membership in the 'ohana. As anthropologist Marion Kelly has written: "under the Hawaiian system of land-use rights the people living within each ahupua'a had access to all the necessities of life," thus establishing an independence founded upon the availability of "forest land, taro and sweet potato areas, and fishing grounds."[19]

If these were unquestioned rights that could not be taken away, there were other "rights" (in the Western way of thinking) that, on the contrary, could not be given to or held by anyone: private land or water rights. Such notions "had no place in old Hawaiian thinking. The idea of private ownership of land was unknown" and " water...like sunlight, as source of life to land and man, was the possession of no man," no matter how high his social rank.[20]

One particularly revealing manifestation of the Hawaiian attitude toward land and the environment in general can be seen reflected in the Hawaiian language. The Hawaiian language has two forms of possessive: The "o" possessive, which signifies a non-acquired and therefore inalienable status (for example, one's body); and the "a" possessive, which signifies acquired and therefore alienable status (for example, most material objects). Thus, although there was a servant class in ancient Hawaii (the kauwā), they were not and could not be slaves in the Western sense, because their bodies could not be "owned" by somone else. Further, there are a few material objects that take the "o" possessive, meaning they cannot be acquired or alienated: house, canoe, land, and sometimes adzes. In the very structure of the language, then, we have confirmation of this crucial aspect of pre-contact Hawaiian life: land could not be acquired or disposed of because it was inalienable and available to everyone.

2. If the 'ohana was the center of the Hawaiians' economic universe it was equally the heart of the political realm. As E.S.C. Handy put it: "Government in old Hawai'i was a personal or family affair centering in the Mō'ī (the supreme ali'i [the 'chief,' as it were]) of a moku (island or segment of an island)." Despite the high rank and privilege bestowed upon the Mō'ī, he acted only in concert with other ali'i. Thus, for example, "in practice, a Mō'ī discussed in a council of ali'i (aha ali'i) the fitness of prospective heirs, who were qualified by rank for succession, and, with the approval of the council, the decision was made and announced."[21]

There was no king in pre-contact Hawai'i (like the concept of private property, "the figment of monarchy" had to await the coming of the West),[22] and thus the Mō'ī of each island or island section was the bearer of the highest rank. That rank, however, was only one stage in the hierarchy of things, as the Mō'ī was "the pivotal point between heaven and earth" and "the medium through which superior power was capable of being induced by magic and worship for the protection of the people and the prosperity of the land." He was assisted by a chief advisor known as the kalaimoku, an individual who's office was personal rather than formal, and the priests--who themselves possessed great authority and were independent of the powers of the kalaimoku.[23]

Before these figures and the ali'i were the maka'ainana, the people of the land. Although subordinate to the ali'i, they supplied the Mō'ī with his economic requirements and he in turn supplied his family, the court, and the priests. In short, in certain crucial respects, the Mō'ī and the maka'āinana were bound together in a reciprocal interdependence: "Land and people existed for the Mō'ī, as earth and men belonged to the gods.... On the other hand, the Mō'ī existed for the sake of the people whose welfare depended upon him."[24] In general, then, "the relationship of the planter and his family to the high chief, and to the *aliʻi* class in general, was a very personal one in which ardent affection was the prevailing feeling unless an *aliʻi* was quite despicable, which was rare."[25]

And rare for very good reason. Unlike feudal European economic and political arrangements, to which the ancient Hawaiian system has often been erroneously compared, the *makaʻāinana* neither owed military service to the *aliʻi* nor were they bound to the land. Should any of them decide to leave an area and move to another, they were always free to do so. And should they choose another, more drastic, path, that too was available to them. Among a number of stories, it is told that an eighteenth century chief named Koihala directed the people in his district to do what they considered excessive work. On top of that, he robbed the fishermen of their catch:

> The story is that he compelled his canoe men to paddle him here and there where the fleets of fishing canoes were. The wind was blowing and his men suffered from the wet and the cold, he being snugly housed in the *pola*. [A raised shelter between the hulls of a double canoe.] One day he had his men take his canoe out towards the south cape where there was a fleet of fishing canoes. His own canoe, being filled with the spoils of his robbery, began to sink; and he called out for help. The fishermen declined all assistance; his own men left and swam to the canoes of the fishers, leaving him entirely in the lurch. He was drowned.[26]

As Marion Kelly notes, the *makaʻāinana* labored willingly most of the time, but they also "took pride in their independence and dignity and never permitted themselves to be abused for long."[27] There are many stories similar to that of the hapless Koihala.[28] And they help account for the "wholesome fear of the people" David Malo said was not uncommon among the chiefs.[29]

The chiefs, then, were caretakers. Their powers were intertwined with the complex network of kinship that was the carefully nurtured center of social life and the *makaʻāinana* were a far from docile group of followers--even at the level of the *ʻohana*:

> The *haku* headed the councils of the *ʻohana*; he was the revered leader; but the old folk, men and women of strong character were extremely independent in speech and action; consequently the *haku* was no dictator but was subject to the advice and opinion of householders and of all other members of his *ʻohana* concerned in or affected by decisions and enterprises.[30]

Thus, the genius of the mutually beneficial political system of pre-contact Hawaiʻi: on the one hand, the independent *makaʻāinana* and their *ʻohana* were free to move and live under the *aliʻi* of their choosing--while on the other hand, the individual *aliʻi* increased his status and material prosperity by having more people living within his *moku* or domain. In combination--and without the overbearing presence of a king or other ultimate, single human authority--these two parts of the system together created a powerful and permanent incentive for the society's leaders to carefully provide for *all* their constituents' well-being and contentment. To fail to do so meant the *aliʻi*'s loss of constituents, loss of prosperity, loss of status, and--most important of all--loss of *mana*, or spiritual power.

3. "The principle of *kapu* was the keystone of the arch that supported the traditional culture of old Hawaiʻi."[31] So writes E.S.C. Handy in a well-known sentence.

Kapu--a variant of *tapu* or *tabu*--meant to the ancient Hawaiians a restriction, a prohibition, sometimes because the thing in question was sacred and sometimes because it was contaminated. *Kapu* was the sacred

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law. To refer back to Redfield's terminology, it was the driving force of the "moral order," the code upon which determinations of "right" and "wrong" were based. It was *kapu* that determined everything from when a canoe was to be built to whom should eat with whom. As Handy puts it:

> In planting, fishing, canoe-making and house-building, which were men's work, the materials used, the operatives, the actual labor involved and the place consecrated to it were sacred and hence protected by *kapu*. Thus in the making of a new canoe, the tree from the moment of its felling, the men who hewed, hauled, and finished it, the shed by the shore in which it was trimmed and rigged were under a spell of consecration, which was removed by ritual at the time of the launching.[32]

One result of the *kapu* system was that social change was relatively slow in pre-contact Hawaiʻi. The society was a system in balance, guided by an inflexible (but readily internalized) moral code. People knew where they stood and what was expected of them. In a sense, then, the *kapu* was both liberating and confining. But it was liberating and confining for *everyone*. No one was above the law. Indeed everyone and everything was immersed in the law. And the law was immersed in the natural world.

The gods in ancient Hawaiʻi were, as Handy says, "by no means a vague feeling." On the contrary. "The gods of the Polynesians were personified concepts that, on the one hand, embodied the desires and needs, the hopes and dreads of their worshippers; and, on the other hand, individualized the elements and forces that they observed in nature."[33] Whereas Western culture has tended to restrict consciousness to human beings (and has often bickered even about that), thus objectifying and dehumanizing everything in the non-human realm, Hawaiian culture did

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just the reverse: it animated reality at every level, granting consciousness to an extraordinarily wide sweep of reality. This view was then manifested in song and dance and poetry:

> The poetry of ancient Hawaiʻi evinces a deep and genuine love of nature, and a minute, affectionate, and untiring observation of her moods. . . .Her poets never tire of depicting nature; sometimes, indeed, their art seems heaven-born.[34]

One result of this tendency was the development of a great depth of sensual feeling for the non-human world and an extraordinary respect for the life of the sea, the forest, and the sky. In short, to return once again to Stanley Diamond: to the pre-contact Hawaiian, the world around him was "neither compartmentalized nor fragmented, and none of its parts [was] in fatal conflict with the others."

It is perhaps ironic--tragically ironic, in view of the destruction wrought upon Hawaiian culture by the coming of the West--that only in the late nineteenth and twentieth centuries did Western science and philosophy begin to comprehend, and celebrate the "discovery" of, concepts that were an integral part of Hawaiian life. Thus, centuries before Darwin announced his theory of evolution, Hawaiians had elucidated the heart of that idea in their great creation chant, *Kumulipo*. And only with the philosophical writings of Alfred North Whitehead, Ludwig Wittgenstein, Edmund Husserl, and others, did the West begin to recognize what Whitehead called "the fallacy of misplaced concreteness"--that is, the mistaken notion of subject/object polarization that had puzzled the West since Plato, but that had no place in the Hawaiian perception of reality. In the wisdom of its traditional metaphysics, Hawaiian culture long knew what the West is only now (and against continued resistance) finding out.

If much of this has seemed abstract, that is because the constraints of space and time required it to be. But what, beyond the abstract formulation, did the ancient Hawaiians' world look like? Here is Captain Cook upon meeting two Hawaiian men:

> Both of these chiefs were men of strong and well-proportioned bodies, and of countenances remarkably pleasing. Kaneena especially, whose portrait Mr. Webber has drawn, was one of the finest men I ever saw. He was about six feet high, had regular and expressive features, with lively, dark eyes; his carriage was easy, firm, and graceful.[35]

Here is Archibald Menzies describing some of these men in a mock battle staged for the white visitors:

> They first fought with blunt spears which they darted from their hands at one another with amazing force and dexterity, making them pass through the air with a whirring noise and quivering motion, yet the party aimed at on either side would often catch hold of them in their rapid course and instantly turn their points with equal force and velocity on those who hove them.[36]

Here is a surgeon with Cook's crew, a Mr. Samwel, on the sight of the Hawaiian canoes that met the Resolution and Discovery:

> We counted 150 large sailing canoes. Many of which contained thirty and forty men, we reckoned that altogether there could not be less about the two ships than 1,000 canoes and 10,000 [Hawaiians].[37]

Here is Archibald Campbell, one of the first Westerners to actually live in Hawaii for an extended time, on domestic life:

> It is only by size that the houses of the chiefs are distinguished from those of the lower orders, for the same barn-like shape is universal. They are, however, kept very clean, and their household utensils, consisting of wooden dishes and calabashes, are hung, neatly arranged, upon the walls.[38]...In all of [the houses] the utmost attention to cleanliness prevails.

Here is William Shaler on Hawaiian agriculture:

> These are [redacted] certainly the most industrious people I ever saw...[They] have, by long and successive experiments, brought their agriculture to an incredible degree of perfection...I have seen, in some places, aqueducts constructed to bring water to elevated lands, that would do honour to the ingenuity of a much more civilized people.[39]

Archibald Menzies, a professional naturalist, was more willing to overlook the problem of "civilization":

> Even the shelving cliffs of rocks were planted with esculent roots, banked in and watered by aqueducts from the rivulet with as much art as if their level had been taken by the most ingenious engineer. We could not indeed but admire the laudable ingenuity of these people in cultivating their soil with so much economy. The indefatigable labor in making these little fields in so rugged a situation, the care and industry with which they were transplanted, watered and kept in order, surpassed anything of the kind we had ever seen before.[40]

Cook also commented on agriculture. On a trip inland he "did not observe a single spot of ground that was capable of improvement, left unplanted; and, indeed, it appeared...hardly possible for the country to be cultivated to a greater advantage."

And on personal relationships, here again is Cook:

> It was a pleasure to observe with how much affection the women managed their infants, and how readily the men lent their assistance to such tender office.[41]

Or Captain George Vancouver, noting the "fair and honest dealing in all their commercial intercourse" and the calm and orderliness of the people "although there was not a chief or any person of distinction amongst them to enforce their good behaviour; neither man nor woman attempted to come on board, without first obtaining permission; and when this was refused, they remained perfectly quiet in their canoes alongside."

Or Vancouver on a performance of hula:

> The entertainment consisted of three parts, and was performed by three different parties consisting of above two hundred women in each, who ranged themselves in five or six rows...The whole of this numerous group was in perfect unison of voice and action, that it were impossible even to the bend of a finger, to have discerned the least variation. Their voices were melodious and their actions were as innumerable as, by me, they were undescribable, they exhibited great ease and much elegance, and the whole was executed with a degree of correctness not easily to be imagined.[42]

Pages might continue to be filled with observations of this sort, but the same point would simply be made again and again and again.

It is clear that the society of pre-contact Hawaii was in crucial respects an exemplar of the indigenous society model retrospectively devised by Stanley Diamond. And it was a far cry from the culturally impoverished "subsistence" society unfriendly Western writers commonly ascribe to the indigenous world. But, on that January day of 1778 that Captain Cook sailed off the coast of Hawaii, there was another society that can properly be described as "pre-contact." It was English society, as represented on board Cook's ships, Resolution and Discovery. With regard to Hawaiian society, after all, English society was still in a pre-contact stage. How did that society compare or contrast with the indigenous model? Until we know that, we will not be prepared to understand the tragedy that ensued from that day forward.

III

It has often been remarked that Captain Cook brought to Hawaii something the Hawaiians had never before seen: iron. That was not all he brought. He brought vermin that would in time infest the environment. And he brought disease that would torture and destroy the people. But he also brought, in himself and the minds of his men, a view of the world that could not co-exist with that of the people who would welcome him as their guest. He brought capitalism, he brought Western political ideas, and he brought Christianity. Let us see how these match up with the relevant parallel ideas in Hawaiian society and indigenous societies generally.

1. In capitalism Cook brought with him (in what one economist has called a "minimal structural definition") an economic system that places in the hands of private individuals and firms the means of production. That is, these "material means essential to the survival of the individual or the group," means that in indigenous societies are held in common, were, in Cook's homeland, the private property of a wealthy few. Further, as opposed to the economically non-competitive and non-acquisitive indigenous forms of material distribution of goods (where "no man need go hungry while another eats"), in capitalism Cook brought with him the abstract notion of money, with all its ideological trappings, and the idea that the proper method of its distribution among people is through the competitive arena of the marketplace.

Whatever can be said for or against capitalism, this much is beyond dispute: the notion of private ownership of land and private control of all other aspects of goods acquisition and distribution is at the heart of the system, so too is the idea of labor as a commodity to be bought and sold. Under the economic system that prevailed in Cook's homeland and in the minds of his crew, no one had a right to expect, as a matter of course, access to food, clothing, shelter, medical care, or work; all of these were articles or means of trade that each individual had to wrest from a resisting community of others who placed great value on the personal traits of ambition, self-reliance, and cunning. Individual survival rested not on interdependence, but on independence--on personal exploitation of others, rather on communal sharing with them.

2. In England, where Cook and his men came from, there was a king. Though no longer possessed of the autocratic powers of many of his predecessors (these had been lost, along with the king's head, at an earlier time) the King of England still symbolized an individual atop the pyramidal structure of the state. Indeed, it had not been that long since the time when Puritans like Christopher Goodman and Henry Bullinger had openly questioned the unlimited power of the throne--and had to hide out in Geneva or Holland as a result.

Moreover, the relatively new parliamentary political system of England was still nothing like that in indigenous societies; on the contrary, it was in many ways precisely the reverse of that common to indigenous societies. Whereas, as Diamond put it, in indigenous societies leadership tends to be "communal and traditional, not political or secular," in England leadership was now both political and secular, not communal or traditional.

Like the economic system, the political system was intensely competitive and individualistic. Notions of extended kinship relations, of naturally expected and accepted reciprocity, of temporal and mundane power as bound up within the web of a larger reality--these had no place in the modern world of eighteenth century England. Power, like money, was simply to be seized by those most willing and fit to make the effort. And those without power took their lives in their hands should they attempt to resist or elude its grasp.

3. Finally, there was Christianity, the belief system that enveloped

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and nurtured the social world. It could not have been more different from that of the Hawaiians or of indigenous people in general. Time was seen as linear, proceeding from a specific beginning to an imminent and apocalyptic end. The earthly world and the spiritual world were separated by an immense gulf--and compared to the spiritual world the earthly world was a pit of ghastly depravity.

The chasm between the earthly and spiritual realms was repeated in the other subdivisions of reality. Paramount among these subdivisions were those separating God, man, and nature. God was transcendent and man, as Henri Frankfort has noted, "remained outside nature, exploiting it for a livelihood... but never sharing its mysterious life."[43] "Nature," as the Christian theologian Charles Davis flatly puts it, "is not sacred for the Christian."[44] Thus, speaking as a Christian--though not uncritically--the distinguished twentieth century historian Lynn White could observe:

> We are superior to nature, contemptuous of it, willing to use it for our slightest whim....To a Christian a tree can be no more than a physical fact. The whole concept of the sacred grove is is alien to Christianity and to the ethos of the West. For nearly two millennia Christian missionaries have been chopping down sacred groves, which are idolatrous because they assume spirit in nature.[45]

Yes, they chopped down trees, but Christian missionaries also did much else. Relentlessly driven to wipe from the face of the earth every religious [illegible] but their own, Christian missionaries became not only the front line of Western incursion into the rest of the world, they were also revolutionaries at the heart of political turbulence at home.[46] In short, far from functioning in the way that belief systems do among indigenous people--that is, as an integrative force, uniting the varied realms of reality and providing equilibrium to the social process--Christianity strove to segregate and hierarchically rank the realms of reality while endlessly disrupting the social order.

All in all--on the economic, political, and religious fronts--as Stanley Diamond has remarked, the Western and indigenous world views "are as antithetical as it is possible for cultural attributes to become within the limits of the human condition."[47]

Before turning to look at the effects of Western ideas and social practices on the people of Hawaii, it worth taking a brief glance at the effects of those ideas and practices on the people who brought them to Hawaii. We have already seen, through the eyes of a number of observers, what the English voyagers encountered upon their arrival to Hawaii--the Hawaiians' "utmost attention to cleanliness", in Archibald Campbell's words; "the kindness and fond attention" of the people for one another and for their children, in Vancouver's language; or, in Archibald Menzies' terms, "the laudable ingenuity....indefatigable labor....the care and industry" of the Hawaiian people; a people of whom Cook would remark, "no people could trade with more honesty", a people of whom all visitors would make note of their strength and health and beauty. This was the world the English had "discovered". What had they left behind?

They left behind a nation in which a third of the population lived "on the bare margin of subsistance" and often fell below it; malnutrition made rickets common among children, broke the bodies of adults, and starved not a few of both--a condition only temporarily alleviated by the famous food riots when utter desperation set in. They left behind a nation of people afflicted with, among other terrible illnesses, "an all but universal disease"--smallpox--that either killed or blinded or "pockmarked and disfigured for life" its multitude of victims. They left behind a people of

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whom "only a relatively small proportion...at any given time was both healthy and attractive, quite apart from the normal features of smell and dirt." What was wrong with them? Here are the words of Princeton's Lawrence Stone, today's leading social historian of that period:

> Both sexes suffered long periods of crippling illness, which incapacitated them for months or years. Even when relatively well, they often suffered from disorders which made sex painful to them or unpleasant to their partners. Women suffered from a whole series of gynaecological disorders, particularly leucherrhoea, but also vaginal ulcers, tumours, inflammations and haemorrhages which often made sexual intercourse disagreeable, painful or impossible. Both sexes must very often have had bad breath from the rotting teeth and constant stomach disorders which can be documented from many sources, while suppurating ulcers, eczema, scabs, running sores and other nauseating skin diseases were extremely common, and often lasted for years.[48]

Then of course there was "the ever-present risk of venereal disease." The great Boswell, for one, contracted gonorrhea at least seventeen different times.[49]

In addition to the stench of disease and simple bodily filth (in England, as in France up to the end of the nineteenth century, it was common for women "to die without ever once having taken a bath"--unlike men who had to bathe occasionally while in military service), there were the ever-present odors of death and excrement. "In towns of the eighteenth century," Stone writes, "the city ditches, now often filled with stagnant water, were commonly used as latrines; butchers killed animals in their shops and threw the offal of the carcasses into the streets; dead animals were left to decay and fester where they lay." Human excrement was dumped in the streets each night. And, in addition, "a special problem" was the phenomenon of "poor's holes": "large, deep, open pits in which were laid the bodies of the poor, side by side, row upon row." These huge pits were left uncovered until entirely filled with corpses, causing one contemporary to complain: "How noisesome the stench is that arises from these holes so stowed with dead bodies, especially in sultry seasons and after rain.[30]

This was "civilization." A far cry from Hawaii. And then there were the children. Infanticide was common--not, as with other forms of sacrifice in some indigenous societies, for religious reasons, but because of financial desperation. The same desperation led to the abandonment of thousands of infants each year, almost all of whom died. Those who didn't die immediately were sent off to parish workhouses, where they soon died--sometimes because of neglect, other times because of murder; poisoning with gin was a favorite technique used by some nurses. And on all this misery there was, of course, someone always ready to make a profit: "the Overseers of the Poor, who extracted a lump sum from the father, or the putative father if the infant was a bastard, and made a clear profit from the early death of the child."[31]

The capitalist ethos could do better than simply prey on the deaths of children, however; it could prey more profitably on their lives. Some were "virtually enslaved" for prostitution or to serve as pick-pockets' apprentices. Others suffered crueller fates:

> Some had their teeth torn out to serve as artificial teeth for the rich; others were deliberately maimed by beggars to arouse compassion and extract alms. Even this latter crime was one upon which the law looked with a remarkably tolerant eye. In 1761 a beggar woman, convicted of deliberately "putting out the eyes of children with whom she went about the country" in order to attract pity and alms, was sentenced to no more than two years' imprisonment.[32]

Thus, the home country of Captain Cook. However many words a picture may be worth, a comparative glance at the contemporary prints of eighteenth century England and Hawaii on the following pages tell an important tale. The would-be saviors of the Hawaiians left a homeland littered with hungry, deprived, sick, and viciously exploited men, women, and children, to bring the beacon of civilization to a healthy, strong, happy, and well-nourished people. They left a nation where avarice was accepted and where vast concentrations of wealth and political power were held by a tiny handful of men, to bring enlightenment to a land where the economy was communal and where such oligarchic wealth and power was non-existent. And they sailed in ships manned by conscript crews--to liberate a people who did not know the meaning of conscription.

As for the religious ideas that descended on the Hawaiians--religious ideas, from America, that were a thin velvet glove concealing the economic motives they contained in their fist--they will be treated at length in a subsequent section.

21

FOOTNOTES

[1] Even Ralph S. Kuykendall, the dean of Western historians of Hawaii and author of what is commonly regarded as the "definitive" history, devotes just eleven pages of his three large volumes to "A Glimpse of Ancient Hawaii." The Hawaiian Kingdom, Volume I (Honolulu: University of Hawaii Press, 1938).

[2] The earliest settlement discovered to date has been traced to around 375 A.D., using radiocarbon analyses of artifacts, and research continues that may establish even earlier settlements. See H. David Tuggle's summary of recent research in the chapter on Hawaii in Jesse D. Jennings, ed., The Prehistory of Polynesia (Cambridge: Harvard University Press, 1979). It is worth noting that these latest scientific findings only prove what the Hawaiians themselves have always said--basing their calculations on genealogies passed on orally from generation to generation. See Abraham Fornander, An Account of the Polynesian Race, Volume I (London: Trubner & Co., 1878), pp. 166-168.

[3] Stanley Diamond, In Search of the Primitive (New Brunswick: Transaction Books, 1974), pp. 136-175.

[4] Ibid., pp. 131-138; Dorothy Lee, "The Religious Dimension of Human Experience" (originally published in 1952), in her Freedom and Culture (Englewood Cliffs: Prentice-Hall, 1959), p. 165.

[5] Diamond, pp. 135, 145.

[6] See, for example, Pierre Clastres, Society Against the State (New York: Urizen Books, 1977), esp. pp. 169-174.

[7] Diamond, p. 138.

[8] Ibid., p. 138.

[9] Robert Redfield, The Primitive World and its Transformations (Ithaca: Cornell University Press, 1953), pp. 20-21.

[10] Lee, p. 165.

[11] Redfield, p. 55.

[12] Diamond, p. 138.

[13] Ibid., p. 142.

[14] Clastres, pp. 162-163.

[15] These observations fill the pages of the writings of all the early Western explorers. See especially the following: James Cook, A Voyage to the Pacific Ocean ..., Three volumes (London, 1784); George Vancouver, A Voyage of Discovery to the North Pacific Ocean ..., Six volumes (London, 1801); Archibald Campbell, A Voyage Round the World ... (New York, 1817); William Shaler, Journal of a Voyage Between China and the Northwestern Coast of America (Philadelphia, 1808); and Archibald Menzies, Hawaii Nei 128 Years Ago, ed., William F. Wilson (Honolulu, 1920).

22

[16] E.S. Craighill Handy and Mary Kawena Pukui, The Polynesian Family System in Ka-'u Hawai'i (Rutland, Vermont: Charles E. Tuttle, 1972) [Reprint of 1958 edition, published by the Polynesian Society, Inc.], pp. 5-6.

[17] E.S. Craighill Handy and Elizabeth Green Handy, with the collaboration of Mary Kawena Pukui, Native Planters in Old Hawaii (Honolulu: Bishop Museum Press, 1972), p. 20.

[18] Tuttle, "Hawaii" in Jennings, ed., The Prehistory of Hawaii, p. 195; cf. R.J. Hommon, "The Formation of Primitive States in Pre-Contact Hawaii," doctoral dissertation, University of Arizona, 1976.

[19] Marion Kelly, Majestic Ka'u (Honolulu: Bishop Museum, 1980), p. vii.

[20] Handy, Handy, and Pukui, Native Planters, p. 63.

[21] E.S. Craighill Handy, Cultural Revolution in Hawaii (Honolulu: Institute of Pacific Relations, 1931), p. 10.

[22] Handy, Handy, and Pukui, Native Planters, p. 63.

[23] Handy, Cultural Revolution, pp. 11-12.

[24] Ibid., p. 14.

[25] Handy, Handy, and Pukui, Native Planters, p. 326.

[26] David Malo, Hawaiian Antiquities (originally published in 1898)--(Honolulu: Bishop Museum Press, 1951), p. 201, note 15.

[27] Kelly, Majestic Ka'u, p. 1.

[28] For other examples, see Marion Kelly, "Changes in Land Tenure in Hawaii, 1778-1850," Masters Thesis, University of Hawaii, p. 37, and Malo, Hawaiian Antiquities, 202-203.

[29] Malo, p. 186.

[30] Handy and Pukui, The Polynesian Family System, p. 7.

[31] Handy, Cultural Revolution, p. 3.

[32] Ibid., p. 14.

[33] E.S. Craighill Handy, Polynesian Religion (Honolulu: Bishop Museum, 1927), p. 22.

[34] Nathaniel B. Emerson, Unwritten Literature of Hawaii (Washington: Bureau of American Ethnology, 1909), p. 26).

[35] Cook, A Voyage, Volume III, p. 4.

[36] Menzies, Hawaii Nei, p. 91.

[37] D. Samwell, Journal of Cook's Third Voyage... (Manuscript copy in Bishop Museum)

[38] Campbell, *A Voyage Round the World*, p. 136.

[39] Shaler, *Journal of a Voyage*, pp. 112, 163.

[40] Menzies, *Hawaii Nei*, p. 106.

[41] Cook, Volume III, p. 112; Volume II, p. 230.

[42] Vancouver, *A Voyage of Discovery*, Volume V, p. 99; Volume I, p. 361; Volume V, p. 118.

[43] Henri Frankfort, *Kingship and the Gods* (Chicago: University of Chicago Press, 1948), p. 304.

[44] Charles Davis, *God's Grace in History* (London: Routledge & Kegan Paul, 1966), p. 25.

[45] Lynn White, Jr., "The Historical Roots of Our Ecologic Crisis," *Science*, 155 (March 10, 1967), 1203-1207.

[46] On Calvinism in England as the intellectual and psychological source of the world's first full-scale revolution, see Michael Walzer, *The Revolution of the Saints* (New York: Atheneum, 1972).

[47] Diamond, p. 129.

[48] Lawrence Stone, *The Family, Sex and Marriage in England, 1500-1800* (New York: Harper & Row, 1977), pp. 486-487. Previous quotations, pp. 84, 76.

[49] Ibid.

[50] Ibid., pp. 77-78.

[51] Ibid., p. 475.

[52] Ibid. Although Stone's work, based on an astonishingly large body of primary sources, is commonly regarded as the most thorough and sophisticated treatment of England's social world during this period, supporting data can be found in numerous other studies. See, for example: Edward Shorter, *The Making of the Modern Family* (New York: Basic Books, 1977), Edward Shorter, *A History of Women's Bodies* (New York: Basic Books, 1982); J. Clifford, "Some Aspects of London Life in the Mid-Eighteenth Century," in P. Fritz and D. Williams, eds., *City and Society in the Eighteenth Century* (Toronto: University of Toronto Press, 1973); and the classic work of M.D. George, *London Life in the Eighteenth Century* (London, 1925).

Section II.

1778 to the Present

Section II

By the end of the 18th century, Hawaiians had been living on all the major islands of the far-flung Hawaiian archipelago for some 1400 years. During long isolated centuries, Hawaiians managed their resources with such skill and industriousness that their intensely cultivated valleys and well-maintained fishponds sustained a large population variously estimated from 250,000 to 400,000 at the time of James Cook's arrival in 1778.[1]

The way of life of the Hawaiians was similar to that of other indigenous peoples---they enjoyed a material and spiritual relationship with the earth. The people of the land, the *maka'āinana*, took their sustenance from what they planted in the earth and harvested from the sea. Hawaiians were, above everything else, a planter people. Their villages were clustered near the ocean and the streams, and they cultivated the valleys as carefully-tended gardens. Early Hawaiians lived with the spirits of the natural world and respected their own human place in the natural order.

According to anthropologist Marion Kelly, life in early Hawai'i was a time of "*La'ila'i*---of peace and calm" when "people all worked together." Social organization was egalitarian at first, but as the population grew,

> the elders became the chiefs (*ali'i*) who managed the resources that Hawaiians attributed to the gods. That which was created by the gods, they reasoned, belonged only to the gods. As administrators of the gods' domains, the chiefs assigned parcels of land to farmers to cultivate. When the population of a land increased, the chiefs and engineering experts---the *kāhuna*---planned larger gardens. The people built these gardens and the large irrigation systems to provide more water for the gardens to make them more productive. The chiefs did not act as "owners" of private property. They acted as elders of families and communities. The chiefs were responsible for the welfare of all their people. A good chief took care of his people. And the people took care of their good chiefs. The land was not the private property of chiefs---they were only the caretakers of every Hawaiians' use rights to the land and its resources. 2

This analysis is echoed by scholars Handy and Pukui who claim that "there was no conception of ownership of water or land but only the use of water and land" in early Hawai'i.[3]

There was no king in early Hawai'i until the coming of the West helped to create one. This is to say that one result of Western influence was the rise to power of a single king. The link between kingship and private property is made with the coming of the West, although the actual institution of private property does not come into being until the Great *Māhele* of 1848. The Handy s and Pukui state that "the idea of private ownership of land was unknown until the Kamehameha autocracy (Kamehameha I, 1810-1819), established as a result of the intrusion of foreign concepts, set up the figment of monarchy, a politico-social pattern alien to the Polynesian scene heretofore."[4]

Before this intrusion, the ruling authorities had been the chiefs, of which there were several, rather than the king, of which there came to be only one as a result of Western contact. Moreover, these chiefs did not own the land, they managed and supervised it. And even when the king did ascend over everyone, he did so as a representative of the gods and on their behalf. Thus kingly authority was not personal but representative. And the power of the chiefs over the people continued only so long as they were treated with respect and care. Pukui and the Handys explain this relationship between the people, the chiefs, and the gods as a form of spiritual trusteeship:

> The...(*ali'i nui*, great chief), the ranking aristocrat who was paramount by reason of genealogical primacy, was a living scion of *Lono* and *Kāne*, and as such was instrumental in the magico-religious induction of rain and flowing water which gave life to taro and *'uala* and other plants, domesticated and wild, and to the earth in which they grew. The paramount chief, born on the soil hence first-born of the *maka'ainana* of a *moku* (island or district), was a medium in whom was vested divine power and authority. But this investment, which was established ritualistically as well as by genealogical primacy, was instrumental in providing only a channeling of power and authority, not a vested right. The person of the *ali'i* was sacred (*kapu*) as though he were a god (*akua*).

> His power and authority (*mana*) were complete. But this was not equivalent to the European concept of "divine right". The *ali'i nui*, in old Hawaiian thinking and practice, did not exercise personal dominion, but channeled dominion. In other words, he was a trustee. The instances in which an *ali'i nui* was rejected and even killed because of his abuse of his role are sufficient proof that it was not personal authority but trusteeship that established right (*pono*).[5]

While the material basis of Hawaiian society was a subsistence economy, the spiritual basis was to be found in the many contours and moods of the natural world. Hawaiian gods were often manifested in nature,and appealed to in times of both famine and plenty, war and peace. Hawaiian chants and genealogies present us with a picture of a people wholly at home *in* nature, rather than painfully separated from it as the Western invaders. The *Kumulipo*, foremost Hawaiian creation chant, reveals that Hawaiians had a profound scientific understanding of the evolution of natural forms and man's dependence on them for food, shelter, clothing, indeed, for the very continuity of the people.[6] Nature, to the Hawaiian, was a larger universe than man who was but one part of the whole along with other animals, the taro and breadfruit, the sea, mountains, and forests, the storms and the rain-bringing heavens. It would be incorrect to say that Hawaiians *worshipped* nature or were somehow *closer* to it. They had, rather, a delicate understanding of, and respect for life's variations and interdependency, including that of their own. In the words of Hawaiian historian Samuel Kamakau, the Hawaiians' looked upon the "winds, the rain, the land, and the sea...as loving friends with whom we share the universe..."[7]

Politically, the people were guided by their *ali'i* (chiefs) who administered the lands and supervised planting, harvesting and building of houses, canoes, and fishponds. The power of the *ali'i* was not absolute, as already observed. Regarding land, *ali'i* authority was based more on a connection with the gods (*mana*) and a capacity to facilitate the flourishing of the land. Because the Hawaiians had to feed and clothe themselves, their relationship with nature was not merely direct and dependent, it was loving and spiritual. The land held the bones of the Hawaiians' ancestors and gave forth the nourishing taro. The *ali'i* were a medium through which both the people and the land lived.

Contrary to what many historians have argued about Hawaiian land tenure, it was not feudal.[8] First, many of Europe's feudal trappings were absent in ancient Hawaiian land tenure---the people of the land, the *maka'āinana*, were not bound to the land and could move from one area to another if they so desired; they did not owe military obligations to the chief of the district in which they lived; and, most basic of all, the *ali'i* did not own the land in any "divine right" or "private ownership" sense. Rather, the *ali'i* were the authorities who supervised the various land districts. Their authority did not translate into autocracy, especially since the people could rise up and kill a cruel chief.

Secondly, feudalism is a European term devised to describe a particular European practice. Its application to a Pacific system betrays both an ignorance of the Hawaiian people and their culture and an intellectual laziness when confronted with a wholly different world view But there is another reason why feudalism is so often used when explaining Hawaiian land tenure. By inventing "feudalism" in precontact Hawai'i, Western scholars can transform a spiritually-based, self-sufficient economic system of land use and *occupancy* into an oppressive, medieval European practice of divine right *ownership* with the people tied to the land rather like serfs. By claiming, then, that a Pacific people lived under a European system---that is, that Hawaiians lived under feudalism---Westerners can degrade an ancient, successful and economically wise system of land use with a pejorative and inaccurate Western term. Later land tenure changes more in line with Western property ownership patterns are then made to appear beneficial.

But what has occurred is a sleight of hand and of mind. The progression from feudalism to individual ownership which is considered laudable in the Western mind is now applied to an entirely different cultural system where "use" rights to the land and water have been guaranteed through their actual daily use by thousands and thousands of Hawaiians over the centuries. In other words, *Hawaiians did not need individual ownership of land*. On the contrary, as Hawaiian history reveals, it was the Westerners, and particularly the sugar barons, who needed private property land tenure to guarantee large-scale production for profit.

The world view of the West, both European and American, is that individual ownership guarantees both security and happiness. But to ancient Hawaiians, individual ownership was not merely unnecessary, since the community enabled security and happiness,it was also wrong, in the meaning of *unnatural*. That is to say, land could not be "owned" since it belonged to the gods. But neither was there a need for ownership since the land was always present, like the air and sunlight. Not only, then, was there no "private" ownership of land, there was no *desire* for such ownership in ancient Hawai'i.

Thus, the conflicts between *ali'i* of differing districts and islands did not revolve around disputed *ownership* of lands but rather disputed *control* of lands. The distinction is meaningful because ownership implies the capacity, perhaps even the right, to do with the land as one sees fit, as one desires; whereas control implies administration of existing land areas without the right to transform the *use* of the land. This is in fact what happened in precontact Hawai'i. Thus war, as in other indigenous societies, did not threaten the economic arrangements of the people, although prolonged conflict and the loss of men certainly disrupted such arrangements. Still, warfare could be conducted without changing the basic system of land use and access for thousands of *maka'āinana*. New chiefs might come and go, but the people stayed, planting and harvesting and attending to the necessities of life.

This is why Hawaiian historian David Malo could write, "the *maka'āinana* were the fixed residents of the land; the chiefs were the ones who moved about from place to place."[9] Here, Malo means "fixed" in the sense of staying put, or remaining. He does not mean "fixed" in the sense of being bound by law to the land. Indeed, when the *ali'i* fought with each other, they took their warriors with them. The *maka'āinana* could go as well if they so desired, but they were not part of the chiefs retinue. The occupation of the *maka'āinana* was not war but the tilling and caring of the land.

Moreover, as early accounts of Western visitors reveal, the people were content under this system. The class structure was clearly stratified, with the *ali'i* and *kāhuna* above the *maka'āinana* and the *kauwā*, or servant class. But this stratification did not mean the poverty of the lower classes, as it certainly did in Europe at the time of contact. Nor did such class structure assume overconsumption on the part of the *ali'i* and *kāhuna*. The *ali'i* certainly consumed what others, the *maka'āinana*, produced, but this arrangement did not result in a surplus production for the benefit of the *ali'i*. Such surplus production came only when the West introduced the sandalwood trade and the idea of accumulation of wealth for acquisition of luxuries, what today is called plain consumption. Without accumulation of surplus, the *ali'i* could not exploit the *maka'āinana* beyond what was needed for the *ali'i's* basic survival. All other indications of status and *mana*---the *kapu* system of restrictions and obligations---never translated into accumulated wealth. Thus, in return for the satisfaction of their basic needs, the *ali'i* rendered to the *maka'āinana* protection and guidance. And this sytem worked remarkably well. David Malo could write, from the vantage point of 1830 and after the ravages of Western disease and economic chaos had already dismantled the Hawaiian system:

> In former times, before Kamehameha, the chiefs took care of their people. That was their appropriate business, to seek the comfort and welfare of the people, for a chief was called great in proportion to the number of his people, for he was a high chief or low chief, according as his people were many or few; wherefore it behooved the chiefs to look well to their people...[10]

The Market Economy

The coming of the West in the person of British explorer James Cook in 1778 marked the beginning of the end of the Hawaiian people and their culture. Their values and customs, their language and arts, their land and livelihood as planters and fishermen would experience a sustained attack from which they would never recover. An entire way of life would pass form the earth in less than a century. And all that would remain would be a diminished remnant of a once thriving and proud people living out a bitter legacy of poverty and oppression.

The way of life which destroyed the Hawaiian culture was the market economy, a system in which profit is the driving motive behind economic relationships and where the individual is induced to accumulate wealth. This system had already taken hold in Europe when James Cook set sail in search of the Northwest Passage that would provide Britain, preeminent capitalist nation of its day, with a shorter route to the resources and markets of Asia. Cook was thus the inheritor of a tradition, begun in the 11th century, which emphasized ceaseless expansion for "scarce commodities, valuable minerals and the far-off lands where they could be found."[11] Heir to the industrial revolution, Cook brought two fateful things, among others, when he stumbled onto Hawai'i: the idea of trade and the disease of syphilis.

While syphilis worked its tortuous evil on Hawaiian fertility and mortality, the idea of trade for profit took slow hold of [illegible]e Hawaiians whose concept of economics, according to Kelly, "was one which involved the welfare of the community, i.e., sharing the work and its products." The Hawaiian way was in stark contrast to that of the West where a system "of private gain, i.e. profits...rested on their counterpart, private ownership of the means of production."[12] This new system changed the *value* of each part of the Hawaiians' world. Everything---food, birds, trees, and especially land---took on an *exchange* value, no longer just a *use* value. In describing this impact sociologist Andrew Lind remarked that:

> The Hawaiian land system was based upon the principle of value through use and was rooted in a subsistence economy. Only after European contacts did the resources of land and sea assume a secular value beyond that of the livelihood and prestige they offered. The taro, bananas, sugar cane, coconuts, yams, timber, pigs, fish, and even the water could now in considerable quantities be exchanged for foreign commodities. 13

Provisioning

Provisioning was the first stage of Western contact 1778-1820).[14] Hawai'i became the supplier of food, water, and sexual refreshment for the men who crossed the Pacific on their way from the United States and Europe to China. Introduction of disease during this period resulted in enormous depopulation. Lacking immunities, Hawaiians were tragically vulnerable. Their habits of cleanliness and traditions of medicine could do nothing in the face of unknown, and often incurable diseases (eg. syphilis, measles, bubonic plague, cholera). The people found themselves forsaken by the gods ar[illegible] surrounded by their dying *'ohana* (family). Although neglected by histori[illegible] an explanation for the frightening impact of the West on unsuspecting Hawai[illegible]s, this rapid depopulation (more than 50% by the time of the missionaries' arrival in 1820) contributed in untold ways to the demoralization of the people, their sense of loss and confusion.[15] Neither the gods nor the *ali'i* could stem the tide of death. Worse, perhaps, was the continued good health of the foreigners who brought the diseases. It seemed to the Hawaiians that the *haole* (white men) were made immune by their god while the Hawaiians had been cursed by theirs. Indeed, syphilis had been called by Hawaiians "ma'i 'o Lono", the *sickness of Lono*, because it was brought by Cook who was at first mistaken, ironically, for the god of fertility, Lono.

During the provisioning stage, the *ali'i*, beginning with Kamehameha, were much taken with foreign implements, such as ships and guns, with which they could more effectively war against each other. A lack of military power and primitive technology thus created a form of inequality between the *ali'i* and the foreigners, most of whom were only too glad to oblige the desires of the chiefs. In their turn, t[illegible] foreigners, Capt. George Vancouver especially, worked tirelessly to create a single kinghsip which, under their influence, they could then use to their own ends. Political scientist, Noel Kent, judges this alliance as crucial in Kamehameha's rise to kingship.

> Kamehameha used his contact with Westerners to secure arms and technology that gave him a decisive superiority over his opponents and eventually enabled him to unite almost all of Hawai'i under his rule. 16

To some of Kamehameha's prophetic, anti-foreign native enemies, he was a creature of the Europeans who "had contributed most to enslave them (the Hawaiians) and to concentrate the sovereignty in the hands of a single individual."[17]

Despite this impact, most of the *maka'āinana* who survived this period continued to live as their forebears had: planting and fishing. The economy, though shaken, was not transformed. For this, Hawaiians had to await the coming of the sandalwood trade, 1810-1830, when the British hold over Hawai'i was eclipsed by America, and when subsistence agriculture experienced a serious decline.

Sandalwood

The rise of the sandalwood trade was the direct result of a change in British tastes from coffee to tea in the previous century.[18] Sandalwood became *the* commodity profitably traded with the Chinese, while several Pacific Islands---Fiji, the Marquesas, and Hawai'i---became the ports of call for ships in search of that precious, sweet-scented wood of the mountains.

American dominance of the sandalwood trade can be explained by the rise of New England as a center of shipping, and of manufacturing of iron tools, agricultural implements, and textiles. Three of four commercial houses in Hawai'i were home-ported out of New England. Thus the bulk of the trade was controlled by Americans.[19]

During the 20 or more years of the trade, the *ali'i* became increasingly enamored of Western products. [redacted] As a result, the *maka'āinana* were ordered into the mountains to cut sandalwood, leaving their fields uncultivated. In short order, the *ali'i* were indebted to foreigners and the *maka'āinana* were starving.

This process of indebtedness, exploitation, and immiseration is a direct product of the market economy. As long as Kamehameha kept a monopoly on the trade, exploitation of the people and the land was controlled. But once Kamehameha died, the situation deteriorated. The chiefs were besieged by Yankee traders who urged upon them "things which they do not want; and for which they have no means of paying but by imposing new burdens upon the people."[20] Traders were quite content to bring the chiefs into increasing indebtedness because foreign governments would send warships to demand payment. In this way, the creation of false needs---a necessary by-product of capitalism which maintains consumption levels---was supported by military strength. As a result, demand was manipulated and the web of dependency continued.

While Americans reaped outrageous profits (they bought sandalwood for $[illegible] a ton and resold it for $100-150 a ton), the effect on the *maka'āinana* was far from beneficial. The following comments from observers at the time span a period of 13 years:

> 1817: Because the chiefs and commoners in large numbers went out cutting and carrying sandalwood, famine was experienced from Hawai'i to Kaua'i...The people were forced to eat herbs, and fern trunks, because there was no food to be had.
>
> 1822: The reasons why provisions are so scarce on this island(O'ahu) is that the people, for some months past, have been engaged in cutting sandalwood, and have of course neglected the cultivation of the land. Vegetables are sold at a very dear rate.
>
> 1830: (The people) are driven by hunger to eat wild and bitter herbs, moss and etc. And though the weather is so cold on the hills... I frequently see men with no clothing except the malo (carrying sandalwood). 21

It is crucial to note, at this point, not only that American economic expansionism directly contributed to the destruction of Hawaiian society but that the United States government pressed its commercial interests with military power. Historian Ralph S. Kuykendall writes:

> The traders brought their difficulties to the attention of the United States government, with the result that in 1826 two American warships visited the islands, their commanders instructed to investigate the situation and render all proper aid to American commerce...Herein we see the genesis of the national debt of Hawai'i. 22 (Emphasis Mine)

The practice of supplementing verbal demands with warships was used by governments other than the United States. The point, however, is the pattern which emerges: the more powerful country dictates the economic direction of the less powerful nation, which in turn becomes increasingly dependent and helpless in the face of superior military strength. This pattern would lead in a direct line to the 1893 overthrow of the Hawaiian monarch with the aid of U.S. marines. In that case, U.S. Minister Stevens threatened the troops on board the U.S.S. Boston if the Queen refused to abdicate in favor of the provisional government. The use of American gunboats in 1826 was but a prelude to the final threat in 1893.

Clearly, the sandalwood period reveals that Hawai'i had already become entangled in America's expanding economy, so entangled that military strength was used to maintain American access to Hawaiian resources. In this manner, America hammered it first wedge of imperialism into Hawai'i. In the words of John Foster Dulles, "there are two ways of conquering a foreign nation. One is to gain control of its people by force of arms; the other is to gain control of its economy by financial means." For America, Hawai'i obviously fell into the latter category.[23]

Whaling

By 1820, the last years of the sandalwood trade had already been surpassed by the whaling industry. Whaling ships had made their first appearance in 1819, the same year that the Hawaiian religious system of kapu (taboo) was broken and a year

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before the arrival of New England missionaries. Leaving these last two momentous occurrences for a later discussion, we can turn our emphasis to the whaling trade (1830-1860) which drew Hawai'i closer to the fortunes and fluctuations of the American economy than the sandalwood trade had ever done.

American predominance continued in the whaling trade. Of the 4,887 ships which called in Hawai'i between 1845 and 1854, 4,402---or more than 90%---were American. By the 1840's, 600 whalers appeared annually. Lahaina and Honolulu became busy little ports with resident foreign populations, wholesale and retail outlets, taverns, and other places of business. Honolulu especially began to be a center of political, economic, and social activity for the Islands as a whole. Indeed, it resembled a New England town with more than 10,000 residents, Yankee ships, an Yankee English spoken on its streets.[24]

But this glittering rise to 'mainland' standards hid a dangerous and growing imbalance in Hawai'i's economy. First, the whaling industry had involved Hawai'i because of factors external to its control---high whale oil prices, the expansion of the U.S whaling fleet; and the transfer by New England interests of their field of activity to the North Pacific. Secondly, large numbers of the Hawaiian people, demoralized by the burdens of the sandalwood trade; abandoned by their traditional leaders who were under continual pressure from foreign debts; and plagued by taxes in both money and labor, took to the cities to find paying work. With the divison of the lands in the Great Māhele (1848) and the Kuleana Act (1850), all but a handful of maka'āinana were alienated from their traditional source of livelihood, despite their cultural rights to the land. As a consequence, many were forced into other pursuits---small jobs in the city, prostitution, signing on board ships as sailors, growing foodstuffs for sale, and as plantation labor when the sugar fields appeared. The land itself was plagued by introduced plant and animal pests which destroyed native gardens. Vancouver's introduction of cattle proved, decades later, to be disastrous to uplands' vegetation. And goats, another introduced species,

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wrought havoc as well. Along with unabated population decline from disease, these factors sealed the fate of the subsistence economy and the passing of an entire way of life.[25] Finally, income from whaling far exceeded that from exports. Indeed, "whaling was... more significant in dollar volume than all other exports taken together."[26] With foreign domination of the whaling industry, including the presence of six mercantile houses---four American and two British---in Honolulu, Hawai'i became an unequal and therefore fragile partner in the American capitalist system.

Hawai'i's period of mercantilism, with its service-based commerce, saw the rise of an entrepeneurial class of foreigners---New Englanders and Europeans, ministers, doctors, and businessmen, who possessed the skill and aggressive values needed to triumph in a competitive, profit-oriented market economy. They looked upon Hawai'i not as a nation belonging to others of a different, more cooperative culture but as a money-making opportunity through which they could amass riches, status, and eventually political control. The plight of the Hawaiians and the larger moral question of the destruction of a whole people and their culture posed no serious problems to this class. They felt, as their evangelical brethren endlessly repeated, that their increasing influence bespoke the superiority of white Western civilization, including Christianity. The words of the Mission Board could serve as a general statement of purpose for the resident white population as a whole:

> to introduce and get into extended operation and influence among them, (the Hawaiians), the arts and institutions and usages of civilized life and society; above all, to convert them from their idolatries and superstitutions and vices. 27

The aggression that accompanied this arrogance was unabated. The missionaries and American businessmen pursued their aims, with little or no regard for the integrity of another culture, another people and another country wholly at odds with their own. The justification was, of course, that the sooner Hawai'i came to resemble America, the sooner the fruits of Western enlightenment would be visited upon the natives.

This 'enlightenment' included, among other evils, the market economy, which, as the decades flew by, would bring land and money to the missionaries, other businessmen, and their children. In the end, the fruits of 'enlightenment' would greatly benefit the haoles who forced it upon the Hawaiians. In the meantime, the assumed "uncivilized" practices of the Hawaiians---their "immodest" dress, "primitive" thought, "licentious" sports and dancing, and "promiscuous" sexual mores---came to be used as justifications for the people's decline.[28] All this ranting about the people's habits went on in the face of irrefutable evidence that massive depopulation was due almost in its entirety to the introduction of disease and other foreign ills, such as alcohol, via traders, businessmen, and missionaries; that is, to the coming of Westerners. With few exceptions, and they were few, the foreigners---most of them Americans----were only vaguely troubled, if at all, by the loss of the maka'āinana. In their place would come American values, religion, language, economics, style and politics. At the sight of this cultural aggression, American novelist Herman Melville could say of his own white people:

> The fiend-like skill we display in the invention of all manner of death-dealing engines, the vindictiveness with which we carry on our wars, and the misery and desolation that follow in their train are enough of themselves to distinguish the white civilized man as the most ferocious animal on the face of th earth.

Asking what the misnamed "Polynesian savage" had to desire at the hands of civilization, Melville replied:

> Let the once smiling and populous Hawaiian Islands, with their now diseased, starving and dying natives answer that question. 29

Land Divisions and a Plantation Economy

Toward the latter end of the whaling period, profound and tragic changes occurred in the land tenure system of Hawai'i (the Great Māhele, meaning land division, of 1848, and the Kuleana Act of 1850).[30] These changes were but one part of a larger process of Western colonization begun during the provisioning stage. Since 1778, increasing number of foreigners had pushed for land reform to enable them to have private holdings. Indeed, beginning with the accession of Kamehameha II to rulership in 1819, foreign pressures to change the land system from common occupancy and use to private ownership with the right of inheritance had increased enormously.[31]

Simultaneous with these pressures to change land tenure had come missionary pressures for religious conversion. When Ka'ahumanu, astute and politically ambitious wife of Kamehameha I, broke the religious kapu system by eating with the younger brother of Kamehameha II, (female-male eating together had been prohibited), the people were cut adrift in a confusing world. Their fellows were dying in record numbers while their *ali'i* were dismantling rather than upholding the traditional way of life. The breaking of the kapu was, like other 19th century innovations, the result of foreign impingement. Historian Kuykendall has written:

> The example of the foreigners, their disregard of kapu, and their occasional efforts to convince the Hawaiians by argument that their system was wrong, were the most potent forces undermining the beliefs of the people. 32

This judgment is echoed by other observers who remarked that the abolition of the old religious system was the result of "deep-seated and widespread causes which had been at work for more than a quarter of a century," that is, since the coming of the West.[33]

When missionaries from Boston arrived in 1820, they found a fertile field for conversion. Once the *ali'i* converted, especially Ka'ahumanu, the people willingly followed. In 1824, Kamehameha II died in England, and his brother, Kauikeaouli, became king. Because he was a minor, Ka'ahumanu assumed the Regency. Under her leadership, Hawai'i was officially a Christian nation by 1840.

Armed with the influence of a Christian leader, American missionaries and businessmen increased their efforts to transform the land system. "By 1845", according to legal scholar, Neil Levy, "the land tenure system could neither maintain itself in the face of a hostile foreign world nor accommodate itself to the wishes of that world."[34]

Finally, Kamehameha III gave in to mounting pressures and appointed a land commission under the leadership of ruthless missionary doctor, Gerrit P. Judd. With the help of fellow missionary William Richards, Judd created the Great *Māhele*. (Both men were in the service of the Hawaiian government at the time.)

The *Māhele* divided the lands thus: 60%, about 2.5 million acres, went to the Crown and the Government; 1.6 million acres went to 208 chiefs; and less than 1 percent of the land, about 29,000 acres, went to 8,000 *maka'āinana*. The ostensible justification for this change was that it would preseve the rights of the people while satisfying the needs of foreigners for land. This, of course, did not happen.

In the first place, the needs of foreigners for land could not be satisfied since their economic system depended for its success on the continual expansion of profits. Thus foreign desire for land might be temporarily abated by the *Māhele* but it would never be quenched, as the subsequent history of 20th century Hawai'i shows. The enormous economic power of Americans was on the rise and it was essential that land tenure become a spur to profits rather than an obstacle.

In the second place, the rights of the people had been successfully protected through the use of these rights by thousands and thousands of Hawaiians over several centuries. The sudden divison of the lands with a new alternative of private property could not possibly have had the effect missionary advisors to the king claimed for it. According to anthropologist Marion Kelly:

> It was the Americans, Rev. William Richards and Dr. Gerrit P. Judd, who drew up the plan called the *māhele*. They convinced the Hawaiian king and the chiefs of the Privy Council to accept it. They told the Hawaiians that if they didn't convert to private ownership of land, any foreign invader that annexed the Hawaiian Islands would not recognize Hawaiian land rights. They said a foreign invader would take over everything, leaving the king, chiefs, and Hawai'ian people landless. 35

In the end, the system confused the people while allowing unprecedented abuse by those administering the law.

The history of the *Māhele* shows that once the land was divided between the

chiefs, the king, and the people, the people did indeed suffer. *Less than one percent of the land went to the maka'āinana*. The chiefs and the king did better but, under increased pressure to sell these lands as well, the bulk of the *'āina* eventually found its way into the plantation economy. The *haoles* triumphed.[36]

Another example of legal theft occurred immediately following the *Māhele* with the *Kuleana* Act of 1850. The Act guaranteed to the *maka'āinana* fee simple title to small plots of land. But these lands could only include that which the tenant "really cultivated". It did not include common pasturage or lands cultivated with others. Since taro cultivation, like fishing, was a group endeavor, separation of the individual from the goup---a Western value---meant starvation for most of the people. Apart from the fact that few *maka'ainana* received any land at all, the plots which they did receive were often too small to cultivate successfully. As a result, Hawaiians either sold their lands or were prohibited from subsisting on them.

Meanwhile, of course, foreigners profitted from a system of their own making. They were enabled to buy vast acreages, either from the *maka'āinana* who were starving, or from the chiefs and the Crown who were heavily indebted to the Western merchants. In both cases, the results were the same. The great bulk of the land came under Western ownership. Kelly, whose specialty is the period of the *Māhele*, judges the role of the *haole* and the purpose of the land division in the following way:

> It was the American missionaries who changed the Hawaiian land tenure system into the American system of private ownership of land. This was done to provide land for American enterprise and safe investment schemes for American money. 37

Such an imperialist design with such devastating effects for the common people can hardly be called the birth of democracy. It is more accurately described as a triumph of colonial policy: the power of the American foreigners, the *haoles*, over the indigenous people.

The legal questions which arise concerning the rights of the people to the Crown, the government, and even private lands have been dealt with in another section

of this report. Given the manner in which land awards were made---that is, with the stipulation "excepting the rights of tenants" on each award---it is clear that the *maka'āinana* never "lost" their rights to these lands. Moreover, the *Kuleana* Act offered only an *alternative* of private property. Those who did not avail themselves of this alternative did not thereby "lose" all their land rights. It is more accurate to say that these rights were "stolen." For our purposes here, however, it is significant to note the effect of the *Māhele* and the *Kuleana* Act on the majority of the Hawaiian people. To quote political scientist, Noel Kent,

> the ouster of the Hawaiian people from the land was an irreparable blow which doomed them to cultural debasement, economic destitution, and a third-rate status in their own homeland. It continued the policy of appropriating Hawaiian resources to further the ends of capitalist accumulation and had the ultimate effect of undermining, once and for all, the viability of the "Hawaiian way."

Meanwhile, for the rising entrepeneurial class,

> ...dispossession of the Hawaiians was an essential precondition for the flourishing of capitalist export agriculture. 38

This export was to be sugar, grown on vast acreages of what was once the land base of the Hawaiian people. Thanks to a host of Americans, missionary and businessmen alike, foreign power had changed "Hawai'i's laws and customs...to reflect those...in the United States, and land legislation and agricultural practices (were) brought in line with foreign notions."[39]

It is important to note the role of law at this point. The imposition of Western concepts through the Great *Māhele* and the *Kuleana* Act was crucial to the taking of the lands. Legal scholar, Neil Levy:

> ...Western property concepts were imposed on the legal structure and would facilitate the rapid, steady takeover of Hawaiian owned lands during the next several decades. Moreover, the government's commitment to selling its remaining land put Westerners, with their access to capital, in a position to take Hawaiian land through the legal procedures they had established. *Western imperialism had been accomplished without the usual bothersome wars and costly colonial administration*. 40 (Emphasis Mine)

The threat of the West was not lost on Hawaiians who resented the missionaries as well as their belligerent military brothers. David Malo could write in 183[illegible]:

> If a big wave comes in, large fishes will come from the dark Ocean which you never saw before, and when they see the small fishes they will eat them up; such also is the case with large animals, they will prey on the smaller ones. The ships of the white men have come, and smart people have arrived from the great countries which you have never seen before, they know our people are few in number and living in a small country; they will eat us up, such has always been the case with large countries, the small ones have been gobbled up...[41]

Malo's perceptive prediction was echoed less than a decade later by other Hawaiians in complaints filed with their ali'i. Feeling the crowding of the foreigners, their ceaseless demands for everything from provisions to women, souls to land, Hawaiians asked: "If the nation is ours, what good can result from filling the land with foreigners," for "the Hawaiian people will be trodden underfoot."[42]

However much they protested, it was increasingly clear to the Hawaiians that they were outmaneuvered. In the end, they would be driven into submission by the familiar forces of Western imperialism: the market economy which would take their land and labor; Christianity which would take their souls; disease to keep their numbers declining and manageable; and warships to ensure compliance. Their sense of peoplehood, and eventually their nation, would be destroyed by white Americans in relentless pursuit of aims which, at bottom, necessitated the total subjugation and dispossession of the Hawaiian people.

Sugar Islands[43]

In Hawai'i, the move from a subsistence economy to a cash-crop economy was secured by the Great Māhele. Land was made available for large-scale cultivation while the people of the land were forced onto the market as workers. Through a few legal manipulations, two of the three requirements for cash-cropping were instantly present, land and labor. The third element, capital, was already available in the pockets of the foreigners.

Sugar economies, like other cash-crop societies, need huge concentrations of capital, land, and labor in order to produce profit. Consequently, social and political relations are a reflection of the need for accumulation. This is why plantation societies evince a highly stratified,oligarchic composition with a small number of owners and managers and a large number of workers who are wholly subordinated and regimented. Hawai'i was a clear example of such a society.

The white owner/manager class included ex-missionaries, such as Samuel Alexander and Henry Baldwin, Walter Rice, S.N. Castle, and Amos Starr Cooke, as well as newcomers to the scene, James Campbell and T.H. Davies. These businessmen and others were quick to profit from a situation they had themselves created. Indeed, the large-scale cultivation of sugar rapidly became the monopoly of this group. They were the firms of Alexander and Baldwin, Castle and Cooke, T.H. Davies, C. Brewer and Co., and Hackfield and Co., later renamed American Factors (Amfac). They came to be known as the infamous Big Five---controllers of Hawai'i's destiny from the last half of the 19th century through the middle of the 20th century.

Until the mid-1870's, most of the plantation labor was Hawaiian. However, as the plantations expanded (with the rapid transfer of government and other ali'i lands to the planters) Hawaiian labor was too scarce---due to a continued decline in the population from disease---to fill the growing need for workers. New sources of labor had to be found elsewhere. The Big Five turned to Asia: First China, then Japan, and later the Philippines.

As long as the Big Five managed the plantations, the workers were subjected to appalling conditions and received a pittance in wages. Although these conditions have been documented in other sources, it is important to take note of them here because the vast accumulation of capital that accrued to the Big Five during this period was the direct result of the massive exploitation of human beings. In describing this exploitive system, the San Francisco Chronicle stated at the time that it "is little if any more humane toward the laborers than Cuban slavery and certainly

much worse than slavery on the Southern cotton and sugar plantations used to be."[44] This judgment changed not [illegible] with the benefit of hindsight. Political economist Noel Kent: "Above all, the [illegible]grants were regarded by the plantation elite as less than fully human, as interchangeable cogs in the productive apparatus---as commodities to produce commodities."[45]

While the flow of new labor from Asia alleviated the immediate difficulty of workers, there remained the thorny problem of a secure market for the Big Five. This problem eventually drove the Big Five to seek annexation to the United States, their primary market and, for many, "mother" country.

The lack of a trade agreement with the United States worried the planters especially during times of economic depression. It was not enough to control the land and drive the workers mercilessly. The Big Five needed a certain market abroad and a dependable political climate at home. The Hawaiian monarchs, although hemmed in by the planters, could still present difficulties. Moreover, the planters were a white minority in a far-off land where both the natives and the non-white immigrants were a hostile majority.

These were the reasons why the push for annexation began as early as 1837. By the 1860's, U.S. politicians and newspapers had joined the local elite in a call for annexation. Congressmen were remarking, as they would again and again until annexation was a reality, that "possession" of Hawai'i was "essential" to American interests in the Pacific. In the meantime, the American military saw Hawai'i as an "important acquisition" for U.S. "naval supremacy" in the area. With the purchase of Alaska, Secretary of State Seward viewed Hawai'i as central to American domination of the Pacific.[46] At the end of the Civil W[illegible] he sent this message to the U.S. Minister to Hawai'i:

> It is proper that you should know for your own information that a lawful and peaceful annexation of the Sandwich Islands is deemed desirable. [47]

As it turned out, if annexation could not be had 'peacefully' or 'lawfully' it would be had nevertheless. Such were the interests of U.S. imperialism.

During the annexation mania of this 1850s period, the United States was pursuing its infamous policy of 'Manifest Destiny' across the American continent. [redacted] While some sights were focused on Hawai'i, most were preocccupied with expansionist policies against the Indians, and with growing commercial and industrial power at home. The United States was becoming a nation whose capitalist interests would rival those of her European forebears.

In 1842, President Tyler applied a kind of Monroe Doctrine to Hawai'i, noting the special interests of the United States in Hawai'i's "sovereignty" and "independence" from other nations. In the context of 'Manifest Destiny', the Tyler doctrine regarding Hawai'i was a clear warning to other imperialist nations, such as Britain and France, that Hawai'i was to be seen by them as it was seen by the United States, namely as a small dependent nation within the American sphere of expansion. Although there was a solid military interest in Hawai'i, the main concern was commercial, specifically the sugar trade.

While the U.S President was enunciating offical policy reagrding Hawai'i's dependence, American missionaries were being exhorted by the ABCFM secretary to work toward a time when "the Anglo-Saxon race (will) fill the myriads of sunny islands on the bosom of the Pacific; and the genius of American and English enterprise (will) preside in great commercial cities---other New Yorks, or even Londons---reared on the Sandwich Islands, New Zealand, and Australia."[48]

In 1850, the Rev. R.S. Storrs spoke before the ABCFM and linked the 'Manifest Destiny' of territorial expansion with the crucial role of the missionary in paving the way for the capitalist economy:

> If the manufactures of our country find their way to Africa and China, to the Sandwich Islands and India, in increasing abundance, and produce correspondingly remunerative returns, it is because the herald of salvation has gone thither, seeking the welfare of the people, changing their habits of life, breaking down their prejudices and creating a

> demand for comforts and wealth before unknown. 49

Diplomats like Charles Denby in China concurred with Storrs:

> Missionaries are the pioneers of trade and commerce...The missionary, inspired by holy zeal, goes everywhere, and by degrees foreign commerce and trade follow. 50

The security of this trade was, of course, the central problem for the white planters in Hawai'i, who were plagued by economic slumps, tarrifs, and other problems. In their search for an agreement that would guarantee a high profit and a dependable outlet, the elite were not to be disappointed. Such a contract was sealed in 1876 with the Reciprocity Treaty between the U.S. and Hawai'i. Despite delays on the Continent and in the Islands, the Treaty was well worth the struggle for the planters. All alternative strategies for economic development were foreclosed; sugar was _the_ high profit crop, marking Hawai'i's fate as a monoculture economy. Hawai'i became wholly dependent on the United States while losing whatever small capacity was left to develop a self-sustained economy in the Islands. Finally, the Hawaiian political situation seemed doomed by territorial incorporation into the United States, and thus to dominance by the very foreign power that had lectured other nations on the Island's independence.[51]

Apart from an increase in profits and an expansion of lands planted in sugar, the Reciprocity Treaty also brought the first territorial cession by the Hawaiian government. The planter elite favored the ceding of the Pearl River estuary for U.S. naval repairs in order to defeat Congressional resistance to the Treaty. Needless to say, Hawaiians were appalled at this suggestion. Meanwhile, King Kalakaua, reigning monarch at the time, had been seen as an advocate of his people by the planters. His alliance with Walter Murray Gibson (cabinet minister) and Claus Spreckels (an "outsider" who had entered the sugar business without the support of the "missioanry boys") was viewed as volatile and dangerous.

> ...the old missionary and plantation elite saw Spreckels as a crudely opportunistic and dangerous interloper, an outsider whose political intrigues and immense economic power threatened the finely tuned structures they had erected in Hawai'i. Gibson was regarded as a radical demagogue far too popular with the ethnic Hawaiian voters, who still constituted a firm majority of the electorate, and Kalakaua was seen as their easily manipulated marionette, lavish in his wastefulness and increasingly given to "extreme" nationalist positions. 52

In response to these perceived threats, the plantation elite organized the Hawaiian League, a secret militia, to force "reform" on the King. While Hawaiians gathered in angry protest meetings against the ceding of the Pearl River estuary, the Hawaiian League met to plan a coup d'etat. With arms supplied by the Honolulu Rifles, the planters seized the government, presented the King with a list of demands, and ordered him to dismiss his Cabinet. Gibson and his son were arrested and a new "Reform" Cabinet was installed. Lorrin Thurston, long-time annexationist and leader in the elite, headed the new government as minister of the interior.

The Constitution which was forced on the King stripped him of most of his power, making him a figurehead. Voting was extended to haole foreigners, but not to Asians,even those who had been naturalized. Property qualifications for voting for the office of nobles were so high that most Hawaiians were excluded from participating. Thus, in two moves, the white elite ensured that the legislature would be predominantly white. Historian Kuykendall:

> ...the voting privileges extended to resident aliens gave to the haoles as a group a greatly increased power in the government and reduced the Hawaiians to a position of...actual inferiority in the political life of the country. 53

The Constitution of 1887 came to be known as the Bayonet Constitution because it was forced on the King at gunpoint. The Pearl River estuary was delivered to the United States and the haole elite moved one step closer to political incorporation into America.

The drive to political integration would continue to be a joint effort on the part of both the local elite and their counterparts in the U.S. mainland. For

the planters, the Reciprocity Treaty and the Constitution of 1887 represented a triumph of the West and Western ways over Hawai'i and the Hawaiians. As historian Theodore Morgan has written, "...the haole merchants and planters and missionaries had reformed the Island economic structure essentially after their own image. Their plantations, stores, steamships, churches, and weekly brass band were drowning out the traditions of the past. Hawai'i was bound tightly in the existing commercial network of the world; and Hawai'i's future was the future of its plantation economy."[54]

The power of the elite to force their desires on the Hawaiian government and the economy of the Islands was not lost on the great masses of the people. For Hawaiians, haole dominance was clear in the pervasive racism of the day. Because nineteenth century philosophies of social darwinism and manifest destiny were the intellectual underpinnings of the haole elite's justification for their aggression against the Hawaiian government, such belligerence would not cease until the haoles had total control, that is, until manifest destiny had been manifested.

Meanwhile, the Congressional debate over annexation would give support to the belief by the Yankee elite in Hawai'i of the essential inequality of the races. As Christopher Lasch has argued, both sides in the annexation debate accepted "the inequality of man---or, to be more precise, of races---as an established fact of life."[55] The substance of the debate then focused on whether the Constitution should be applied in the colonies, and whether the American empire should be hemispheric or global. The question of whether the native people wanted American dominance did not arise since, according to Senator Hoar in the Congressional Record, asking the Hawaiian people what they wanted was "as reasonable to take the vote of children in an orphan asylum or an idiot school."[56]

Beyond taking sustenance from this kind of philosophizing on the American mainland, the local elite looked upon the coming age of imperial America as

evidence of their superiority in Hawai'i. They were Americans; although expatriate in citizenship, their hearts and minds were American in character. Their success was confirmed by the larger global success of America.

To Hawaiians, it was obvious that haoles would now dominate politics. They had effectively excluded Hawaiians from the legislature and, by so doing, had moved a step nearer the power of the Crown. Asians and Hawaiians would play the role of supplier---of labor and land---to the haole economic machine. And the government, which had always supported the sugar industry with monies, would be even more generous now that the reigns were controlled by the planters. From 1887 on, the Hawaiians would view politics as a haole domain. Given subsequent history---the overthrow, the provisional government, the Republic and its racist constitution, and finally the fifty year dominance of the Big Five---it is clear that Hawaiians were not mistaken intheir judgment. Politics was, with few exceptions, a white man's world from 1887 until 1954. All non-white and native actors on the political scene would serve at the sufferance of the elite, and with their larger interests in mind.

The Overthrow

The dominance of the planters---in control of four-fifths of the arable land in Hawai'i by 1887---was continuously aided by America's policy of expansionism. In 1889, Secretary of State James Blaine announced his intentions for a"purely American form of colonization" in Hawai'i. In the same year, a short-lived Hawaiian insurrection was put down with the aid of marines from the U. S. Adams, and two years later, another ship, the U.S.S. Pensacola, was in Hawaiian waters to guard American interests.[57]

In the meantime, a growing Asian population of laborers was perceived as a grievous danger to firm haole control in Hawai'i. Should Asians make common cause with hostile Hawaiians, the planters believed their dominance might be seriously threatened. Annexation was seen seen, therefore, as a guarantor of both economic and political control by the planter elite. As the local business paper put it, "It is the white race against the yellow. Nothing but annexation can save these Islands."[58]

In 1892, an Annexation Club was formed with many of the same participants as the Hawaiian League. Support was sought in Washington D.C. by Lorrin Thurston and assurances came from Secretary of State Blaine and Secretary of War, Tracy. Tracy spoke with President Harrison and reported back to Thurston:

> I have explained to the President what you have said to me... the President does not think he should see you, but he authorizes me to say to you that, if conditions in Hawai'i compel you people to act as you have indicated, and you come to Washington with an annexation proposition, you will find an exceedingly sympathetic administration here. 59

Before Thurston returned to Hawai'i he posted an agent of the secret Annexation Club, one Archibald Hopkins, in Washington D.C. to keep the flames of annexation alive.

While the annexationists planned their take-over, Queen Lili'uokalani ascended the throne upon the death of her brother, Kalākaua, in 1891. She was independent of mind and heart, and strongly committed to a sovereign Hawai'i. Her deep attachment to the Hawaiian people placed her in a hostile position opposite the haole elite. Aggrieved by the loss of royal power due to the Bayonet Constitution and quite aware of the intentionsof the planters for annexation, she was determined to promulgate a new Constitution which would restore her power.

The Queen's move was the long-awaited opportunity for the annexationists. They quickly formed a "Committee of Public Safety" and obtained an assurance from U.S. Minister Stevens that "United States troops on board the Boston will be ready to land at any moment to prevent the destruction of American life and property... and they of course would recognize the existing government whatever it might be."[60]

The following day, January 16, 1893, Stevens ordered the troops ashore to support the actions of the Committee of Public Safety who seized government buildings and forced the abdication of the Queen.

The specific details and legal arguments surrounding the overthrow have been given separate attention elsewhere in this report. For our purposes here, we shall only point out that the question of theinvolvement of the United States has been answered by the investigative report of Commissioner Blount who was sent by President Cleveland to render an accounting of the overthrow. In Blount's opinion, U.S. Minister Stevens was clearly part of a "prearranged plan to overthrow the Queen." Moreover, Stevens had recognized the Provisional Government before the Queen abdicated. Indeed, Blount stated that the Queen's abdication was a direct result of Stevens' action. Finally, Blount concluded, annexation (the end goal of the Provisional Government) was not the will of the vast majority of the people in Hawai'i.

> If the votes of persons claiming allegiance to foreign countries were excluded, it (annexation) would be defeated by more than five to one. 61

President Cleveland, upon studying Blount's report, addressed Congress and gave this reading of the overthrow and the requests for annexation. Stevens had "zealously promoted" the project of annexing Hawai'i. Indeed, Cleveland quoted Stevens at length:

> Destiny and the vast future interests of the United States in the Pacific clearly indicate who at no distant day must be responsible for the government of these islands. Under a territorial government they could be as easily governed as any of the existing territories of the United States...
>
> Hawai'i has reached a parting of the ways. She must now take the road which leads to Asia, or the other which outlets her in America, gives her an American civilization, and binds her to the care of American destiny. 62

After reviewing the details of the overthrow and Stevens lightning recognition of the Provisional Government, Cleveland concluded:

> As I apprehend the situation, we are brought face to face with the following conditions:
>
> The lawful government of Hawai'i was overthrown without the drawing of a sword or the firing of a shot by a process every step of which, it may safely be asserted, is directly traceable to and dependent for its success upon the agency of the United States acting through its diplomatic and naval representatives.
>
> But for the notorious predilections of the United States mininster for annexation, the Committee of Safety, which should be called the Committee for Annexation, would never have existed.
>
> But for the landing of the U.S. forces upon false pretexts respecting the danger to life and property, the committee would never have exposed themselves to the pains and penalties of treason by undertaking the subversion of the queen's government.
>
> But for the presence of U.S. forces in the immediate vicinity and in position to afford all needed protection and support the committee would not have proclaimed the provisional government from the steps of the government building.
>
> And finally, but for the lawless occupation of Honolulu under false pretexts by the U.S. forces, and but for Minister Stevens' recognition of the provisional government when the U.S. forces were its sole support and constituted its only military strength, the queen and her government would never have yielded to the provisional government, even for a time and for the sole purpose of submitting her case to the enlightened justice of the United States. 63

A new minister, Willis, was despatched to Hawai'i by Cleveland to learn if the Queen would grant an amnesty to the Committee of Public Safety if she were returned to the throne. According to the minister, the Queen would not. However, there is evidence that the Queen agreed to the amnesty demand in a letter she posted to Minister Willis on the same day as Cleveland's address to Congress. But the demand for amnesty, as even the President knew, would doom the Crown to a repeat seizure. The demand would not have been acceptable to any government in the same situation, including the United States, and only shows the capitulation of Cleveland to the sugar interests and annexationists despite his acknowledgment of the illegality of their act.[64]

Annexation stalled and the Provisional Government became the Republic of

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Hawai'i and sought annexation for the next five years. Once Cleveland left office and McKinley became President, annexation was a certainty. In a message to Congress, in 1897, McKinley said:

> Hawai'i has shown her ability to enter into a conventional union with the United States of America, thus realizing a purpose held by the Hawaiian people and proclaimed by successive Hawaiian governments through seventy years of their virtual dependence upon the benevolent protection of the United States. Under such circumstances, annexation is not a change; it is a consummation. 65

There was indeed a "consummation" in 1898, but it was not benevolent or protective. Hawaiian governments before Kalākaua had not proclaimed their dependence on America. As a matter of record, they had each asserted their international rights as a sovereign nation. Moreover, McKinley overlooked the fact that annexation was not the will of the people. The Republic of Hawai'i, by deliberately modeling its Constitution after the Mississippi Constitution of 1891 which disenfranchised black Americans, had effectively excluded Hawaiians and Asians from voting in the Republic. Of the officers of the Republic and of its 14-member Advisory Council, there was not a single Hawaiian. Under the scrutiny of history, McKinely's words become nothing more than slick justifications of America's policy of Manifest Destiny.

With annexation, Hawai'i was politically incorporated into a rising capitalist nation to serve its interests and goals. Neither the concerns of the indigenous Hawaiian people nor of their leaders had amounted to much in the Congressional debate over annexation. With few exceptions, the arguments for and against annexation in the Congress concerned whether or not the United States should become an obvious imperialist nation, acquiring overseas colonies. In essence, did the Constitution allow the acquisition of colonies?

The fact that America had been an imperialist nation regarding Indians did not figure into the discussions. If it had, perhaps the direct connection between the treatment of the Indians and the treatment of the Hawaiians would have been made.

Given American expansion across the continent however, it was predictable that the wishes of the indigenous people would be disregarded, and the debates focused wholly on the best interests of the United States.[66]

Pro-annexationists saw clearly the advantages to commerce and military power in the Pacific if Hawai'i were annexed. They argued that "the nation which controls Hawai'i will control that great gateway to commerce..." in Asia. America's capitalist interests in the resources and markets of China---her manifest destiny as an imperialist nation---led her inexorably toward acquisition of colonies. It was not the military threat of the war with Spain which forced the annexation issue. On this point, historian Thomas Osborne has concluded a study of American opposition to annexation by arguing that:

> ...historians seem to have exaggerated the role played by the Spanish-American War in overcoming the opposition to Hawaiian annexation...Commercial considerations, such as the fear of the economicconsequences of the manufacturing surplus, the appeal of the Asian market, the concern about the economic partitioning of China by rival powers, the dramatic upturn in American foreign trade in mid-1890, and the hope of enlarging the American-Hawaiian commerce, were more decisive in bringing about the defeat of the anti-annexationists. 67

It was, clearly, America's interests in an "open" market which drew her into a war with Spain and subsequently into final incorporation of Hawai'i.

Finally, the annexation of Hawai'i opened the floodgates to further acquisitions. Within seven months of the Newlands resolution which annexed Hawai'i, the United States had acquired Wake Island, Puerto Rico, Guam and the Philippines. The imperialist urge, once loosed, could not be abated. It is a central thesis of this report that the acquisition of territories followed on the expansion of the American capitalist system. Hawai'i's fate, then, was the result of a larger economic drama which saw smaller nations swallowed up by the collosus of the North.[68]

The Big Five

While annexation furthered American colonial aspirations, it permitted the

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planter elite oligarchy control of the islands. A large annual sugar quota was given to the planters who responded by opening 13 new plantations. The Big Five broadened and deepened their hold locally even as Hawai'i was being drawn ever more strongly into the world capitalist order.

Still controlled by missionary descendents, the Big Five extended their control to include railroads, banks, insurance companies, retail and wholesale outlets, shipping lines, and trust companies. Through intermarriage, joint financing, stock ownership, and other means, the Big Five solidified their power on all the islands of the chain. Finally, the planter oligarchy controlled politics. First, the governor's office:

> The solution arrived at by Washington and Honolulu in joint consultation, was to establish an extraordinarily powerful governor, possessing a wide range of administrative and discretionary powers. Control over the governorship thus became one of the keystones of elite control over the entire political process. Officially appointed by the president, territorial governors were in actuality handpicked by the oligarchy.

And, later, the legislature:

> The second keystone of political domination was legislative control Since the elite was only a small minority of the elctorate and could easily be outvoted, it was faced with the continuing problem of establishing an electoral majority. With most Orientals barred from the polls as aliens, the dominant voting bloc was formed by the newly enfranchised Hawaiians. Scilfully using Hawaiian leaders to construct a mass Hawaiian base for legislative domination by by the Republican Party, the elite created the vehicle they needed. 69

This vehicle was the establishment of the homesteading act for Native Hawaiians passed in Congress in 1521. (This subject has been addressed elsewhere in this report). Ostensibly created to give land to impoverished Hawaiians to farm, the Act actually made public lands available for re-lease to planters at incredibly cheap prices. Thus, out of 200,000 acres set aside for the supposed "rehabilitation" of the Hawaiians, most was re-leased for plantations. The sugar economy triumphed again.

By these means---economic control, political control and cultural hegemony---the Big Five maintained an iron reign over the islands. This reign was reinforced by paternalism and, when this failed, by coercion and terror. Ray Stannard Baker, American journalist of this time, remarked that "Three-quarters of the population of Hawai'i have no more to say about the government under which they are living than the old slaves of the South."[70]

What Big Five control,supported and sustained by American aid, meant for Hawai'i was a form of economic dependency so thorough that neither the people nor the oligarchy realized its ramifications. In the first place, the people, both Hawaiian and Asian, were excluded from any kind of decision-making about the economic direction of their society. In the second place, the oligarchy was more than content with their cash-crop economy because they benefitted enormously. The fragility of such an extreme dependency only concerned them insofar as it threatened their power and wealth. Under such conditions, no impulses toward self-sufficienty occurred. And Hawai'i went the way of other dependent colonies that supplied raw products (sugar mainly, but also pineapple and other resources) to the exploiting 'mother' country in return for processed goods, food, and metropolitan technology.

The impact of the Big Five on the social and cultural relations of Hawai'i will be discussed in the following section on the major actors in the process of colonization. Suffice it to say here that the economic control was justified by racist ideology, the familiar underpinnings of white superiority and native and other non-white inferiority. These arguments served the haoles well, legitimating the division of labor by race where the professions were reserved for the haoles, the plantations for the Filipinos and the Japanese, the small businesses for some Japanese and the Chinese, and the construction and waterfront jobs along

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with low-level civil service work filled by the Hawaiians. For decades, indeed half a century, this racial stratification permeated local society not merely stereotyping individuals and groups but ensuring a "colonized" mentality in both the ruling class and the subordinate classes. The psychology of colonization would continue to afflict Hawaiians long after the Asians, including the Filipinos, had begun their ascent into economic viability.

Post-War Hawai'i

The dominance of the local elite continued virtually unchallenged until after World War II. In the meantime, the United States had become the foremost nation in the world, shoring up a devastated Europe, occupying a defeated Japan, and internally developing the world's largest productive apparatus to secure America's military, technological, and industrial preeminence. In practical terms, this meant the penetration of U.S. corporations in Europe, the establishment of the U.S. dollar as the world's currency, American domination of the World Bank and the International Monetary Fund, and American leadership against the Communist countries.

Between 1945 and 1975, the largest American corporations became multi-national, reaching overseas for higher profit and greater market control. The same was true for U.S. banks. Foreign aid often went hand in hand with corporate penetration. The U.S. military victory and the ensuing Cold War found American troops and bases strewn all over the glove, ostensibly protecting democracy but clearly reinforcing American investments.[71] American imperialism filled the void created by a devastating war, and the result was an intensified, systematic exploitation of the Pacific Basin.

The great move into the Pacific created a partnership between the U.S. and Japan. As described by Noel Kent, this strategy of capitalist development applies to all nations of the "Pacific Rim":

> The Pacific Rim strategy ...is the strategy for sustained corporate profitability (and thus survival) as applied to the special historical, socioeconomic, and political circumstances of the Pacific Rim nations. The central theme it shares with multinational corporate strategies elsewhere is the implementation of a divison of labor whereby some nations are frozen into the role of raw material suppliers and cheap manufacturing units for the benefit of other nations. Pacific Rim corporate strategists are fond of assuring everyone that not only is the "Pacific division of labor" eminently desirable from a developmental point of view, but that it is quite definitely in the interests of all concerned. 72

It is in the context of thisstrategy that Hawai'i's post-war economic development needs to be understood. After the war, the sugar industry began to stagnate. A unionized labor force and a glut of sugar on the world market kept profits low and unstable. Faced with the passing of the plantation economy, the Big Five went multi-national, reorganizing their management, consolidating their holdings, streamlining their operations, importing new technology, and increasing their aggressive pursuits of markets in the Pacific.

This multinationalization meant, for the Big Five and Dillingham, a ruthless concern with profitability. The results have been a callous exploitation of people, their communities and their environments. In addition, since multi-nationals are accountable to no one while they are present everywhere, their power to enter and leave countries at will, thus disrupting and sometimes destroying communities, is immense. Moreover, multinationals often locate in the most oppressive nations because the reigning dictators will guarantee a military hold of enforced stability which protects investments and profit.

While the Big Five have penetrated the Pacific Basin as multi-nationals, they have looked to tourism and land development as their economic base in Hawai'i. The end of the sugar islands has meant the coming of the tourist islands. Ideally situated for this transformation because of their vast landholdings, the Big Five have nevertheless been driven to collaborate with overseas corporations who are land-poor but capital-rich. This collaboration has resulted in overseas ownership of large resort complexes and hotels with a concomitant loss of control for the local communities. The result has been the development of Hawai'i as a dependent tourism-land development economy.

The role of the state in Hawai'i has been critical in ensuring Hawai'i's part in the "Pacific Rim strategy. Beginning with Statehood in 1959, both the Republican and Democratic governors consciously chose a path of support for tourism Unprecedented outlays of government funds were earmarked for roads, harbors, airports, and other facilities in the early sixties. Along with a commitment to infrastructure came an open market for mainland investment. State and County officials teamed up with local businessmen to present attractive offers to U.S. investors. The result was that Hawai'i became a "magnet for mainland capital."[73]

These investments created a further imbalance in Hawai'i's economy. Huge insurance companies like Prudential, John Hancock, and New York Life, for example, came to have substantial holdings in tourism/land development. Local businessmen and politicians increasingly found themselves to be junior partners in the tourism boom. But they quickly invested in land schemes causing a rush in speculation which, between 1950 and 1975, multiplied land values 17-30 times.

While the "New Hawai'i" was being developed at a record pace, the unions came around to the tourism model, seeking membership in the construction trades and the hotels. Reeling from an anti-Communist campaign in the fifties that attacked many of their leaders, the trade unions were forced into support for the tourist developmental model.

With the State and County governments, the unions and the Big Five solidly behind tourism, Hawai'i began to be pushed as the "Geneva of the Pacific" from 1965 on. The University of Hawai'i was enormously expanded with a Tourist Industry Management School, and specialization in research and development, Asian Studies, oceanography and international business. The University budget was increased over [illegible]% between 1960 and 1970. A new component---the East-West Center---was established in 1960 to be a beacon for American capitalism, training counter-insurgents for Indonesia and elsewhere, funding "cultural" research that amounted to little more than a cover for American imperialism, and drawing consultation groups that represented some of the wealthy capitalists in the world.

In the meantime, the Vietnam War brought over a hundred military contracts to the University as well as hundreds of thousands of men on leave to Hawai'i. Militarized by bases and men, Hawai'i became a crossroads of the American war machine.[74]

This involution of the dependency model----where Hawai'i became a tourist society in the Pacific Basic divison of labor---occurred while Hawai'i also became a center for multi-nationals interested in exploiting the Pacific. Thus vitimized and victimizing, Hawai'i is now a pawn in the imperialist game.

For indigenous Hawaiians and other locals as well, the tourist society has only meant a higher cost of living, higher taxes, an increasingly crowded and polluted environment, and growing crime and racial tensions. While Asians have adopted the individualistic, capitalist values of the American middle-class, becoming more aggressive and selfish in their pursuits that the old haole elite, the Hawaiians as a group continue to suffer the centuries-old effects of racism and cultural colonization. Their sharing ethic, their affective relationships, and their love for the land are in agonizing conflict with the exploitive values of capitalism. In many ways, Hawaiians find themselves to be strangers in their own land, constantly beseiged by a system that demands individualistic, aggressive behavior and increasing destruction of their environment. Those Hawaiians who give in to the crushing demands, striving to become adept at Western ways, experience a schizophrenic life. Part of them is Western, part if Hawaiian, and the whole is neither satisfied nor adjusted. In addition, the system is racist in employment, education, industry, commerce, government, indeed in all areas. Those Hawaiians who are unable and unwilling to change their lives to fit better into the capitalist world find that they are continually ground under by poverty, underemployment, or poorly-paid employment in the tourist industry. Finally, the "New Hawai'i" has offered no opportunities to Hawaiians while it has added larger, more insidious forms of exploitation: the outrageous commercialization of Hawaiian culture, arts, and dance, and the further commodification of the Hawaiian people as exotic purveyors of a plasticized culture on the international market of tourism .[75]

Summary

What I have argued,too briefly, in this political economy is that every stage of economic development in Hawai'i has corresponded to the demands of capitalism in metropolitan centers, first in Europe, and after 1870, to America. Thus, during the mercantile stage in the United States and Europe, Hawai'i served as a provisioner of men and ships (1778-1810); when the tastes of the British changed from coffee to tea, Hawai'i, like other Pacific nations, was ravaged by sandalwood hunters in search of a commodity for use in the China tea trade (1810-1830); as North Atlantic whaling grounds were exhausted, and the U.S. whaling fleet expanded, Hawai'i's economy became dependent on whaling (1830-1860); and, once capitalism spread across the U.S. and agricultural commodities market developed on the West Coast, Hawai'i's role became that of sugar supplier (1860-1950). Finally, with stagnation of the plantation economy, Hawai'i was catapulted into its latest and most dependent stage of development: corporate tourism.

Each of these stages, except the first, was engendered by U.S. expansionism — the needs of American capitalism for resources, markets, strategic bases to protect both of these, and ultimately profits. Scholars Noel Kent, Richard Drinnon, and Felix Greene have carefully documented the rise of the American overseas imperium and its effects on the developing world, which in this case would include Hawai'i.

In addition, the roles of the missionaries and the military [redacted] were integral to American expansion. The missionaries came to transform Hawai'i and Hawaiians into American reflections replete with Western dress, English language, Christian religion, and most necessary of all, private property. Indeed, it can be argued that the missionaries' most lasting effect on Hawai'i (especially in light of the dominance of the Big Five) was the "spirit of capitalism". Meanwhile, the military, first present during the gunboat diplomacy of the sandalwood and whaling stages, was the naked force, the obvious threatening instrument of American imperialism. Hawaiian governments were continuously at the mercy of warships until the final act of injustice in 1893 when U.S. troops, on the pretext of protecting American life and property, forced the abdication of the Queen.

Justifications for this "plucking" of the golden fruit, as U.S. Minister to Hawai'i Stevens called the overthrow, were the familiar nineteenth century themes of Manifest Destiny and Social Darwinism. These twin ideals were manifested in the wholly American belief, held by everyone from the Puritans to Jefferson, Monroe, Jackson, Adams, down to Harrison, McKinely, and Roosevelt (and on into the 20th century by Kennedy, Nixon, Johnson et. al.) that the United States, because of superior virtues, people and culture, was chosen by God and history to control first the continent of America, then the Pacific, then the Carribean, and finally Asia and beyond. Myths of "wilderness", "frontier" and "open space" justified the extermination and forced removal of 10-12 million Indians, while thinly-veiled racism legitimated the "white man's burden" of forcing "Christian civilization" on Hawaiians, Samoans, Chamorros, Cubans, Filipinos, and millions of other indigenous people around the globe. (Drinnon's analysis in Facing West is particularly good on this point since he traces American expansion from the Puritans through the Vietnam War).

Hawai'i was colonized by America as surely as India was colonized by the British. But where India finally won its freedom, Hawai'i became an ever more dependent satellite, finally incorporated as an "internal colony" within the territorial borders of the United States.

Notes

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3. E.S. Craighill Handy, Elizabeth Green Handy, and Mary Kawena Puku'i; Native Planters in Old Hawai'i (Honolulu, 1972), p. 58.
4. Ibid., p. 63
5. Ibid., p. 63
6. See Rubellite Kawena Johnson's translation of the Kumulipo, Vol. 1 (Honolulu, 1981), especially pp. i-iii.
7. From Kathleen Dickson Mellen, The Gods Depart (New York, 1956), p. 49.
8. For arguments of this kind see Jon Chinen, The Great Māhele (Honolulu, 1958). Also, R. Kuykendall, The Hawaiian Kingdom, 1778-1854 (Honolulu, 1938).
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10. David Malo, "On the Decrease of Population on the Hawaiian Islands," translated by L. Andrews, Hawaiian Spectator, vol. II, no. 2, (April, 1839), pp. 125-127.
11. Noel Kent, Hawai'i: Islands Under the Influence (New York, 1983), P. 11.
12. Marion Kelly, Changes in Land Tenure in Hawai'i, 1778-1850 (M.A. Thesis, University of Hawai'i Library, 1956), p. 52.
13. Andrew Lind, An Island Community: Ecological Succession in Hawai'i (New York, 1938; reprint, ed. 1968), p. 42.
14. Kuykendall, The Hawaiian Kingdom, 1778-1854, pp. 12-61.
15. Schmitt, p. 42.
16. Kent, p. 16.
17. Cited in Kuykendall, The Hawaiian Kingdom, 1778-1854, p. 65.
18. See Dorothy Shineberg, They Came For Sandalwood (London, 1967).
19. See Theodore Morgan, Century of Economic Change (Cambridge, 1948).
20. Cited in Kuykendall, The Hawaiian Kingdom, 1778-1854, p. 89.

21. Ibid., pp. 89-90.
22. Ibid., p. 91.
23. Felix Greene, The Enemy (New York, 1971), p. 153.
24. Kent, pp. 21-25.
25. E.S. Craighill Handy, Mary Kawena Puku'i, The Polynesian Family System in Ka'u (Tokyo, 1972) pp. 242-244.
26. Kent, p. 23.
27. Cited in Kuykendall, The Hawaiian Kingdom, 1778-1854, p. 101.
28. For the effects of missionary disapprobation on the hula, for example, see Marion Kelly, Dorothy Barrere, and Mary Kawena Puku'i, Hula, Historical Perspectives (Honolulu, reprint, 1981), pp. 26-55.
29. Cited in Arthur Schlesinger, Jr. "The Missionary Enterprise and Theories of Imperialism" in The Missionary Enterprise in China and America, Ed. John K. Fairbank (Cambridge, 1974), p. 365.
30. For a discussion of the Māhele, see Kelly, Changes in Land Tenure in Hawai'i, 1778-1850.
31. For a discussion of the relationship between Western imperialism and legal changes see Neil Levy, "Native Hawaiians Land Rights", California Law Review 63, (July, 1975).

    Also Karen Blondin, "A Case for Reparations for Native Hawaiians" in Hawai'i Bar Journal, Vol XVI, no. 2.
32. Kuykendall, The Hawaiian Kingdom, 1778-1854, p. 67.
33. Ibid., p. 67.
34. Levy, p. 853.
35. Kelly, Trask, and Trask Review, p. 13.
36. See Levy's analysis, "Native Hawaiian Land Rights."
37. Kelly, Trask, and Trask, Review, p. 13.
38. Kent, p. 32.
39. Ibid., p. 29.
40. Levy, p. 857.
41. Cited in Kuykendall, The Hawaiian Kingdom, 1778-1854, p. 153.
42. Cited in Paul Jacobs and Saul Landau, To Serve the Devil, (New York, 1971) p. 25.

43. This section on the Sugar Islands follows very closely Kent's argument in his recent book, Hawai'i: Islands Under the Influence, pp. 35-55. Kent's book is a pathbreaker since it is a major departure from all previous histories of Hawai'i.

44. Quoted in Kent, p. 40.

45. Ibid., p. 40.

46. Ibid., p. 41.

47. Ibid., p. 42.

48. Quoted in Schlesinger, p. 352.

49. Ibid., p. 345.

50. Ibid., p. 345.

51. See Kuykendall, The Hawaiian Kingdom, 1854-1893 (Honolulu, 1967), pp. 373-401.

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53. Kuykendall, The Hawaiian Kingdom, 1854-1893, p. 371.

54. Theodore Morgan, Century of Economic Change, p. 206.

55. Quoted in Richard Drinnon, Facing West (New York, 1980), p. 308.

56. Quoted in Ibid., p. 311.

57. Kent, p. 59.

58. Ibid., pp. 60-61.

59. Quoted in Kuykendall, The Hawaiian Kingdom, 1854-1893, pp. 535-536.

60. Quoted in Kuykendall, Ibid., p. 588.

61. Quoted in Robert McElroy, Grover Cleveland, The Man and The Statesman, Vol. II (New York, 1923), pp. 56-57.

62. From Cleveland's address to Congress, reprinted in its entirety in the Honolulu Star-Bulletin, Thursday, January 6, 1983, p. A-16.

63. Ibid.

64. The question of the amnesty demand is discussed in McElroy, pp. 66-68.

65. Quoted in Theon Wright, The Disenchanted Isles, (New York, 1972), p. 20.

66. For a discussion of the relationship between American manifest destiny and the extermination of the Indian see Drinnon, Facing West.

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67. Thomas Osborne, Empire Can Wait (Ohio, 1981), p. 134.

68. Ibid., p. 135.

69. Kent, pp. 74-75.

70. Quoted in Kent, p. 77.

71. See Felix Greene's analysis of post-war American imperialism in The Enemy.

72. Kent, p. 100.

73. Ibid., p. 124.

74. This section follows closely Kent's analysis, pp. 122-185.

75. For statistics on Hawaiians, see the Socio-Economic Section of this report.

November 14, 1982

Senator Daniel Inouye
United States Senate
Washington, D.C. 20510

Dear Senator Inouye,

I have not been involved in the Native Hawaiians Study Commission because I am not Hawaiian in the sense of 'i'o and koko (flesh and blood) and therefore not Native Hawaiian. I do consider myself Hawaiian, however, as being from this land. Hawaii is my home and Hawaii is my nation.

I know about Hawaii's history including the establishment of the Provisional Government by citizens of the United States and the overthrow of the Hawaiian Government (Monarchy) by landing armed United States Military Forces (January 1893) in breach of International laws and treaties. I know about the Blount Report and the declaration by President Cleveland before Congress (December 1893) that the overthrow was illegal and that Hawaiian sovereignty should be restored. All this, notwithstanding the original yielding of authority, under protest, by Queen Liliuokalani to avoid conflict and unnecessary loss of life "until such time as the Government of the United States shall, upon the facts being presented to it, undo the action of its representatives and reinstate me and the authority which I claim as the constitutional sovereign of the Hawaiian Islands."

An article in the Honolulu Advertiser 9/24/82 ("Hawaiian Reparations: no legal rights found") spurred my interest in writing to you and the Native Hawaiians Study Commission. You are quoted as saying that you favor a second opinion besides the Study Commission Report. Joseph Kealoha points out in that same article that the Study Commission completely omits the basic fact of United States involvement in the illegal and immoral takeover and overthrow of the Government of the sovereign nation of Hawaii and the subsequent loss of sovereign rights. This omission certainly makes it obvious that a "second opinion" is necessary and, since the Study Commission Report claims there are "no legal rights", then it must be determined just WHY and under whose law there are no legal rights. Of course, United States law was written by the very people and administered by the very nation that perpetrated the overthrow so we would EXPECT "no legal rights" under United States law or decision.

The final incongruity in all this is that the United States is the one deciding reparations for a wrong done by the United States! This is like asking the thief if he stole something!

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Setting up a self-appointed "provisional government" inside another country and then bringing in military forces to support that provisional government in taking over that country is wrong by ANY standard and certainly contrary to what the United States espouses. This, in itself, establishes "legal rights" in the most fundamental way.

Legal rights thus established, the question is just what reparations and restitution should involve. The basic issue is sovereignty – Hawaii's right to political independence as a people and as a nation. A second issue is the loss of ancestral lands and water rights. This includes free access to shoreline waters and fishing grounds. To even CONSIDER paying dollars to purchase or extinguish any claims for sovereignty and loss of land is an insult!

Compensation should take two forms:

1. REPARATIONS - Making up for a wrongdoing.
   Return all Crown Lands (now State and Federal lands) to Hawaii's people.

2. RESTITUTION - The return of something taken away.
   Restoration of sovereignty to Hawaii with the right to political independence.

If this requires "special legislation", then that is what must be done. That is the job of Congress. But, if the Final Report of the Study Commission does not address the issues of sovereignty and United States involvement in the overthrow of the Government of the sovereign nation of Hawaii, then ANY report by the Native Hawaiians Study Commission should not be available to ANY government body or administration so they can say that the Hawaiians were given their chance.

Sincerely,

Charles Trembath

Charles Trembath
R.R. 1 Box 334
Koloa, Hawaii 96756

References: Hawaii's Story by Liliuokalani
Position Papers of the Liliuokalani Trust

Copy to: The Native Hawaiians Study Commission
Dept. of Interior Building Room 6220
18th & C Streets N.W.
Washington, D.C. 20240

—I want to respond to the Native Study Commission's draft report.—

I found it to be very vague + non factual. I also had great difficulty getting the report itself due to non-availability.

Disappointing ———

me ke aloha

Brooke Trapper

[redacted]

[redacted]

Now that a commission has been made up to study the issue of the overthrow of the Hawaiian Government by America; the decision can be only one.

Wrong indeed was done. Treason a crime took on by the bold greed of Capitalists, from the Northeast, of that era, who are not here to hang for such charges. Yet the blood lives in descendants of today with unrest and absolute frustrations. And the likewise goes for the Hawaiian descendants who are victims of unrest and frustrations.

Therefore, if these people involved in the overthrow and treason cannot face the charges, America has no alternative but relinquish her supreme authority. The Hawaiian people should once again take control of their Government.

We today are the seed of that event. And the manifestation of this is well in my na'au.

As we so celebrated the sesquicentennial of the missionaries arrival to Hawaii, I would like to make note to the public four excerpts (in quotations) from Queen Liliuokalani's letter to President Grover Cleveland in 1893.

"That it has been a project of many years on the part of the missionary element that their children might some day be rulers over these Islands, and have the control and power in their own hands, as was the case after the revolution of 1887. Mr. W. W. Hall openly stated that they had planned for this for twelve years. It was a long-thought-of project, a dream of many years. So also said Mr. F. S. Lyman of Hilo, in his speech to the people in the month of January. He said, 'Fifteen long years we have prayed for this, and now our prayers are heard.'"

"The disposition of those appointed to position, of authority, to act with

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the missionary element, tends to make the government unstable; and because they found I could not easily be led by them, they do not like me."

"The interference of the American minister, J. L. Stevens, in our local affairs, and conspiring with a few foreign people to overthrow me and annex these Islands to the United States, and by his actions, has placed me and my people in this unhappy position."

"We have been waiting patiently, and will still wait, until such time as the government of the United States, on the facts presented to it, shall undo the act of its representative."

The nerve of these missionary families! How is the 'oia'i'o. Auwe noho'i e! Aloha 'ino! And that Devil, J. L. Stevens, should have been hung! For treason.

I purposely stress elements. And it is because of this very ELEMENT I am raged with anger and prompt into delivering this message.

As I have been temporarily Hana by the spirit of that woman, through her writings I know the anguish far beyond any normal human existence, for which those people had made her suffer. And the agony and humiliation, Queen Liliuokalani carried for twenty-four years from her overthrow to her death.

And the blasphemy of those involved who have misused the scepter of that heavenly element!

Now, I would like to see the descendants come forth and address this matter, and make every amends possible to this disgusting miscarriage, to which their forefathers were an instrument to the situation by the misuse of that very ELEMENT! A disgraceful and ungodly miscarriage indeed!

For too long have one and one been three, and it is time they come forth in the grievance of this issue. For now is the time to do so, and if they refuse, then time will be against them, as well as that Heavenly ELEMENT!

'Ike Akua!

Is America also ready to stand trial on charges of treason for her part.

How dare she (America) continue to carry on this charade; by sending a commission and saying, go and study the wants and the needs of the Hawaiians. And sending such a high school panel to address the needs. It is not the needs, in as much as the issue. Are you, America, ready to stand trial? And in a Hawaiian Court. When the issue is solved, then will the needs be addressed! We no longer can continue this type of politics; a Pun Factory connection.

The government which now exist is so torn by fools (politicians), far removed from the originator's idea yet he be deceased, after his revolution for a better government.

So today we continue to have this old order, trying to maintain hold and still lacking the understanding of right and wrong. Well this is what I call a politician. Where are the Socrates? The men of wisdom! Are there no true Senators? Especially in this situation where justice is not prevailing!

Let's stop this infantile adolescent politics, and mature to wisdom as the Heavens have given it to us.

We all know these Islands were illegally taken over and native Hawaiian rights violated. Yet we must wait for the slow learners of the American Government, as well as its Congress, its courts, and our False State to conceive this fact! Auwe noho'i e! Aloha 'ino! I thought they suppose to be smart and bright people.

And as for the Courts, I find this to be the biggest fraud of justice to prevail in our midst. Until America, and her courts, can understand its illegal involvement some ninety years ago; its courts and administration should be deemed a fraudulent caricature, offensively repugnant!

The same too would go for our State courts, and the State Government, which is just a sub-factor to this corrupt American system. Our existing elected [illegible] State, should forget about its twenty-fifth anniversary of pretended Falsehood. For it still remains the puppet of American aggression.

We are Hawaiians first and Americans not even secondly, but only "technically". Our culture and way of life is different from Western World. Yet America, with the help of non-Hawaiian representatives, tries to camouflage it by placing our culture in the category of, "Native American Culture". Why Pele, [illegible], and Lono are screaming—the nerve! Again they don't know who we are!

Restore Hawaii's sovereignty and its Homeland back to its people. I don't know how many times I must stress this fact; which every person with the least common sense should know. America is America. Hawaii is Hawaii. It is not, Hawaii is America, nor, America is Hawaii.

Sovereignty can not be bought! It is priceless. Money has no place in sovereignty. Only through complete genocide and I stress this point strongly, because only through complete genocide can sovereignty be taken away or lost. Is this what America have done? Or is this what America has in mind? Therefore, it is time for the United States to [illegible] this fact; as well as our Fraudulent State.

We the Hawaiian people still do have, what is rightfully ours by God—our sovereignty. Our existence as Hawaiians is proof of our sovereignty, and that it, exist. And any man or people think this not so, is an ignorant fool. For no one or people has that right.

So, it is time we the Hawaiian people start realizing this fact, and start exercising our sovereignty. We always had it, but was always misled, and suppressed, and most of all, brainwashed to thinking we lost it. Let us all join together and [illegible], and bury that fallacy forever.

How clever those involved and responsible thought they were, but what a low

blow to the mentality of many even under the eyes of God. An absolutely flagitious crime born of that element.

Are we so ignorant we can't see this?

That whole repugnant affair has been an incongruous, whitewashed, flagitious, travesty of the overthrow and our sovereignty up to now. It is time this awareness is known to everyone.

It is time for the ruling class and the cultured intellectuals, as well as the intellectuals, to come out from hiding. Come forth, and take on your responsibilities and duties, and fulfill your purpose.

I will let the sound of my voice reach the ears of everyone of my generation and thereafter, and have them know the right from wrong. And when this is all fulfilled, people of the past, our state, and America, will be looked at as a time in history, when people had removed themselves so far, to not know the difference of right and wrong. They will be amazed! They will wonder—how possible? How would you feel?

For anyone who knew and think nothing of what has happened; the displacement of your mentality is hard to comprehend.

All past generations, by their silence, have been abettors; accomplices to this hideous atrocity. And our generation absolutely refuse to be a party too; in joining the pages of this shameful history beneath to say knowing this innocent, avariciousness of evil.

Hatred abounds and the legacy of bitterness is reflected in our generation and it, exist.

To concede to this atrocity would be absolutely ludicrous and preposterous!

No amount of sophistry can determine the horror of this flagitious crime; which if not rectified, the future generations will face such an inhuman horror for which all will share the accusations and duly damned. For there will be no absolution.

Yes, look around you all Hawaii, for what is happening all about. For the denial of your liberty and sovereignty; as a people you have remained non-violent. Yet, your liberty and sovereignty, remains to feel good in the hands of those greedy non-Hawaiian, who are caught up so deep in this temptation that they know no other.

Your struggle for liberty and sovereignty is paralleled by what is happening around the world. And because of this the way will be paved for true understanding by many-especially Washington, when your case is understood.

To the congress—will you go down in history as a congress who righted the wrong, and gave back to a people, as you yourself enjoy; their freedom and government. Knowing too, perfectly well, that Hawaii would never declare war on you.

If not, then the true democracy, in the light of American ideology is defeated and shattered.

The innocent despoilment of the Hawaiian people, by America and other foreign people, is the work of—Satan!

If in God you trust, and know his will; then rectify this atrocious and flagitious crime, or seek no absolution even by Him!

In closing I would like to say, the wave of the Heavens is being redistributed; and we have it within our power to do the motion over again. If not us, who? And if not now! When!

'Ike [illegible],

[illegible] Lambert-John Ulaleo
Keaau, Puna, Hawaii

RR1 Box 6101
Pahoa, Hawaii 96778

Proposals and Reparations:

A. To end the ninety year old atrocious crime of American imperialism:
   1. America's takeover of the Hawaiian Islands, null and void.

Since America is at its greatest national debt, and not able to repay monetarily for the innocent despoilment of the Hawaiian people, for both domain (land) as well as a price which there is none for, dominion; the priceless sovereignty; the conscience and reparations of America comes down to this:

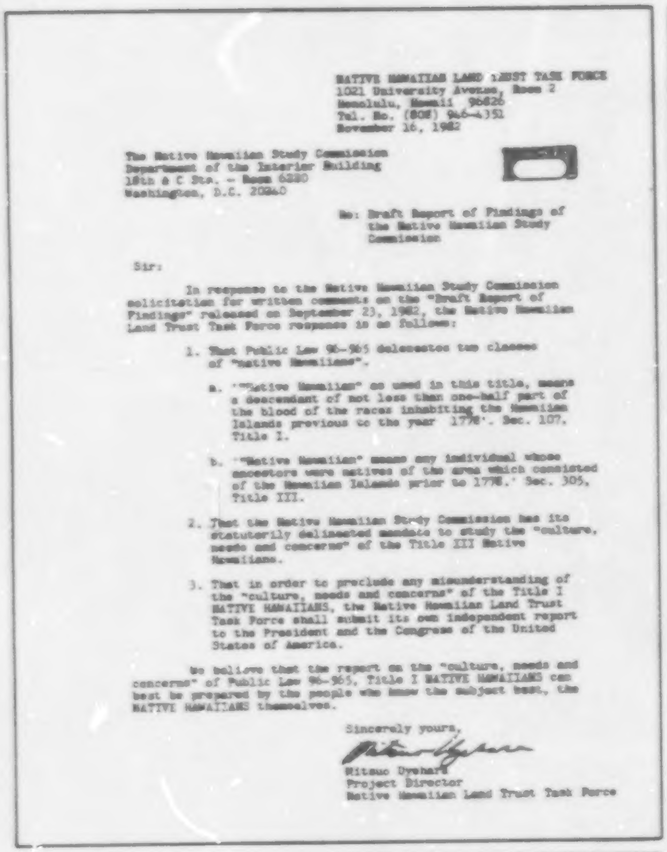
B. America's acceptance in full, the autonomy of the Hawaiian people, their rights and Homeland to exist.
   1. The Office of Hawaiian Affairs; of Hawaiian descent, will be in charge of the Hawaiian policies, the Hawaiian people and all Hawaii's lands.

C. The acceptance in full by the Hawaiian people, to have America's government exist unilaterally in their Homeland.
   1. All Federal and State offices and its agencies as it exist, will remain the control of the United States, under the heading of; The Office of American Affairs.

And pray to God that a precedent of harmonious relations is established for the world, toward an American-related Commonwealth of Nations.

'Ike [illegible],

[illegible] Lambert-John Ulaleo
Keaau, Puna, Hawaii



NATIVE HAWAIIAN LAND TRUST TASK FORCE
1021 University Avenue, Room 2
Honolulu, Hawaii 96826
Tel. No. (808) 946-4351
November 16, 1982

The Native Hawaiian Study Commission
Department of the Interior Building
18th & C Sts. – Room 6220
Washington, D.C. 20240

Re: Draft Report of Findings of
the Native Hawaiian Study
Commission

Sir:

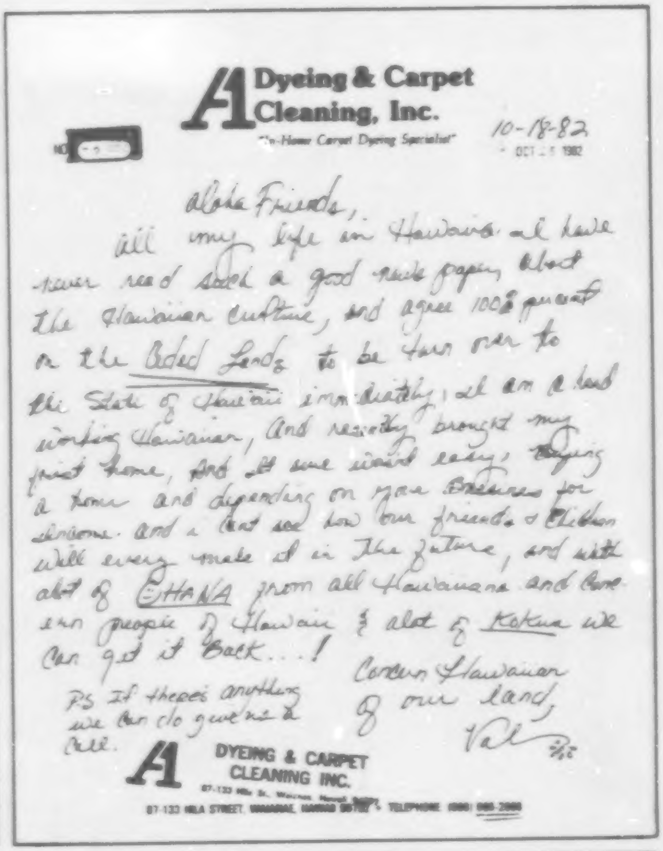
In response to the Native Hawaiian Study Commission solicitation for written comments on the "Draft Report of Findings" released on September 23, 1982, the Native Hawaiian Land Trust Task Force response is as follows:

1. That Public Law 96-565 delineates two classes of "native Hawaiians".
   a. '"Native Hawaiian" as used in this title, means a descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to the year 1778'. Sec. 107, Title I.
   b. '"Native Hawaiian" means any individual whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778.' Sec. 305, Title III.
2. That the Native Hawaiian Study Commission has its statutorily delineated mandate to study the "culture, needs and concerns" of the Title III Native Hawaiians.
3. That in order to preclude any misunderstanding of the "culture, needs and concerns" of the Title I NATIVE HAWAIIANS, the Native Hawaiian Land Trust Task Force shall submit its own independent report to the President and the Congress of the United States of America.

We believe that the report on the "culture, needs and concerns" of Public Law 96-565, Title I NATIVE HAWAIIANS can best be prepared by the people who know the subject best, the NATIVE HAWAIIANS themselves.

Sincerely yours,

Mitsuo Uyehara
Project Director
Native Hawaiian Land Trust Task Force



A1 Dyeing & Carpet Cleaning, Inc.
"In-Home Carpet Dyeing Specialist"

10-18-82
OCT 25 1982

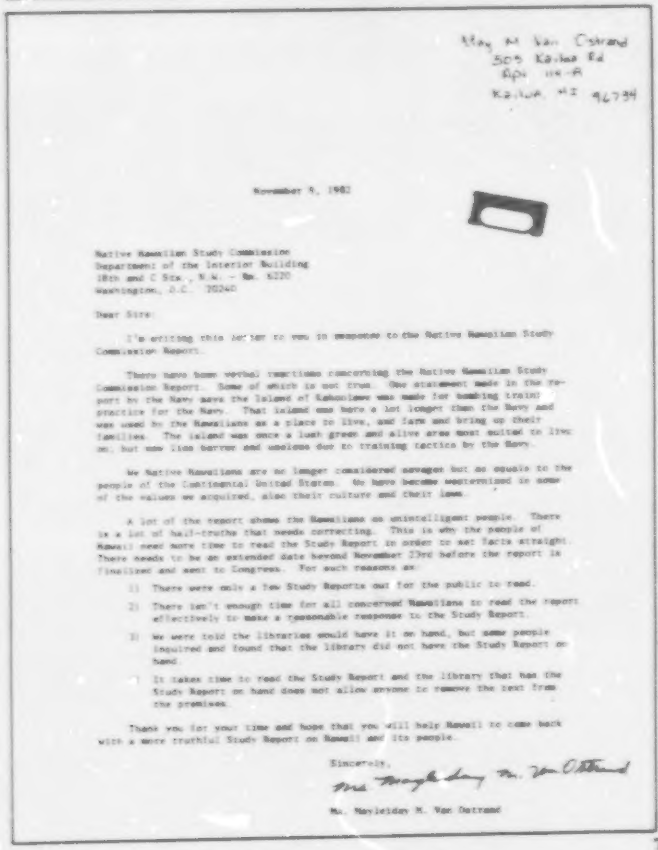
Aloha Friends,

All my life in Hawaii I have never read such a good news paper about the Hawaiian culture, and agree 100% percent on the Ceded Lands to be turn over to the State of Hawaii immediately, I am a hard working Hawaiian, And recently brought my first home, And it sure wasn't easy, buying a home and depending on your business for income. And I can't see how our friends & children will every make it in the future, and with alot of OHANA from all Hawaiians and Concern people of Hawaii & alot of Kokua we can get it Back...!

Concern Hawaiian
of our land,
Val

PS If there's anything we can do give me a call.

A1 DYEING & CARPET CLEANING INC.
87-133 Hila St. Waianae, Hawaii 96792
87-133 HILA STREET, WAIANAE, HAWAII 96792 • TELEPHONE (808) 696-2000



May M Van Ostrand
505 Kailua Rd
Apt 114-A
Kailua, HI 96734

November 9, 1982

Native Hawaiian Study Commission
Department of the Interior Building
18th and C Sts., N.W. – Rm. 6220
Washington, D.C. 20240

Dear Sirs:

I'm writing this letter to you in response to the Native Hawaiian Study Commission Report.

There have been verbal reactions concerning the Native Hawaiian Study Commission Report. Some of which is not true. One statement made in the report by the Navy says the Island of Kahoolawe was made for bombing training practice for the Navy. That island was here a lot longer than the Navy and was used by the Hawaiians as a place to live, and farm and bring up their families. The island was once a lush green and alive area most suited to live on, but now lies barren and useless due to training tactics by the Navy.

We Native Hawaiians are no longer considered savages but as equals to the people of the Continental United States. We have become westernized in some of the values we acquired, also their culture and their laws.

A lot of the report shows the Hawaiians as unintelligent people. There is a lot of half-truths that needs correcting. This is why the people of Hawaii need more time to read the Study Report in order to set facts straight. There needs to be an extended date beyond November 23rd before the report is finalized and sent to Congress. For such reasons as:

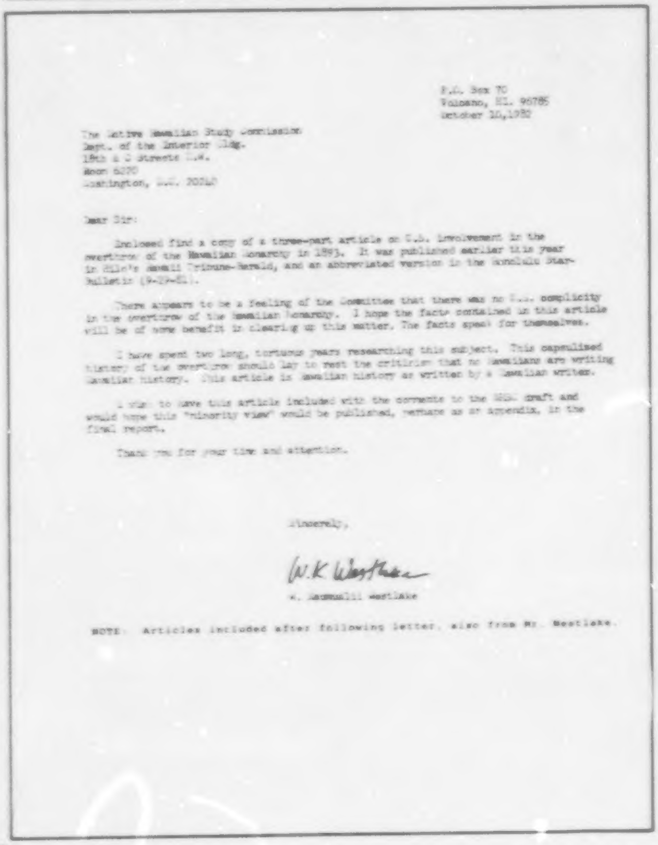
1) There were only a few Study Reports out for the public to read.
2) There isn't enough time for all concerned Hawaiians to read the report effectively to make a reasonable response to the Study Report.
3) We were told the libraries would have it on hand, but some people inquired and found that the library did not have the Study Report on hand.
4) It takes time to read the Study Report and the library that has the Study Report on hand does not allow anyone to remove the text from the premises.

Thank you for your time and hope that you will help Hawaii to come back with a more truthful Study Report on Hawaii and its people.

Sincerely,

Ms. Mayleiday M. Van Ostrand

Ms. Mayleiday M. Van Ostrand



P.O. Box 70
Volcano, HI. 96785
October 10,1982

The Native Hawaiian Study Commission
Dept. of the Interior Bldg.
18th & C Streets N.W.
Room 6220
Washington, D.C. 20240

Dear Sir:

Enclosed find a copy of a three-part article on U.S. involvement in the overthrow of the Hawaiian Monarchy in 1893. It was published earlier this year in Hilo's Hawaii Tribune-Herald, and an abbreviated version in the Honolulu Star-Bulletin (9-29-82).

There appears to be a feeling of the Committee that there was no U.S. complicity in the overthrow of the Hawaiian Monarchy. I hope the facts contained in this article will be of some benefit in clearing up this matter. The facts speak for themselves.

I have spent two long, tortuous years researching this subject. This capsulized history of the overthrow should lay to rest the criticism that no Hawaiians are writing Hawaiian history. This article is Hawaiian history as written by a Hawaiian writer.

I wish to have this article included with the comments to the NHSC draft and would hope this "minority view" would be published, perhaps as an appendix, in the final report.

Thank you for your time and attention.

Sincerely,

W.K. Westlake

W. Kaumualii Westlake

NOTE: Articles included after following letter, also from Mr. Westlake.

P.O. Box 70
Volcano, HI. 96785
November 7, 1982

Native Hawaiian Study Commission
Dept. of the Interior Bldg.
18th and C Streets N.W.
Room 6220
Washington, D.C. 20240

RE: Comments to the NHSC Draft Report

In regards to the Native Hawaiian Study Commission Draft Report, it appears that the historian who wrote the section dealing with the overthrow of the Hawaiian Monarchy in 1893 relied heavily, if not exclusively, on the historical work of R. S. Kuykendall, titled "The Hawaiian Kingdom" Vol. III, 1874-1893, published by the University of Hawaii Press, 1967.

Other, more first-hand accounts of active participants in the overthrow exist, including accounts written by Hawaii's own Queen Liliuokalani; by Lorrin A. Thurston, chief American protagonist in the overthrow; by then U.S. President Cleveland; and by Sanford Dole, first provisional government president after the overthrow. All these accounts and many others are referenced in Kuykendall's work, but evidently the NHSC historian chose not to investigate these first-hand sources.

In addition, very little weight, if any, appears to have been given to the Blount Report, though the 684-page document itself weighs nearly 10-pounds. More weight apparently was given to the Morgan Report, which is nothing more than a reactionary, cover-up account in response to Blount's critical exposure of the U.S. role in the overthrow.

Nor was any weight given to U.S. State Department and U.S. Navy dispatches to and from U.S. Minister Stevens, nor the letters of Secretary of State Gresham. Had all the aforementioned sources (and the many others that exist) been consulted and not ignored, it is very likely that the opposite conclusion would have been drawn. United States complicity in the overthrow of the Hawaiian Monarchy in 1893 is clear as the waters of Kealakekua Bay.

What follows is a three-part, capsulized history on U.S. involvement in the overthrow of the Hawaiian Monarchy in 1893. There appears to be a feeling among members of the NHSC that there was absolutely no U.S. complicity in the overthrow. I hope the facts contained in this article will be of some benefit in clearing up this matter. I have written the article in as dispassionate a tone as possible, considering the intense anger still felt by Hawaiians over this gross injustice. The facts of outrage speak for themselves.

I have spent two long, tortuous years researching this subject, and have consulted over 50 sources in coming to the conclusion contained in my article. Had the historian in charge of writing the chapter on the overthrow consulted a similar number of sources, the conclusion reached in the NHSC Draft Report could very well been drastically altered,

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Native Hawaiian Study Commission
November 7, 1982
Page Two

and thus provide a view that, to Hawaiians, is closer to the truth.

I wish to have the 3-part article enclosed included with these comments to the NHSC Draft Report, and would hope this "minority view" (majority view of Hawaiians) would be published somewhere in the final report.

Let it also be noted for the record that I did in fact submit 10 copies of this history to the NHSC at its public hearing last year in Hilo. Evidently it and the facts contained within were ignored in preparing the Draft Report. It is my hope that the article will not face the same fate in preparing the final NHSC report.

Sincerely,

W.K. Westlake

Wayne K. Westlake
Hawaiian Institute of Advanced Studies

cc: Rep. Daniel Akaka
U.S. House of Representatives
1510 Longworth House Office Bldg.
Washington, D.C. 20515

Mr. William Tagupa
Office of Hawaiian Affairs
567 S. King St.
Suite 100
Honolulu, HI. 96813

enclosure: "The Overthrow of the Monarchy" by W.K. Westlake
Hawaii Tribune-Herald, January 14. 15, 17, 1982.

Hawaii Tribune-Herald Thursday, January 14, 1982

The overthrow of the monarchy—part I

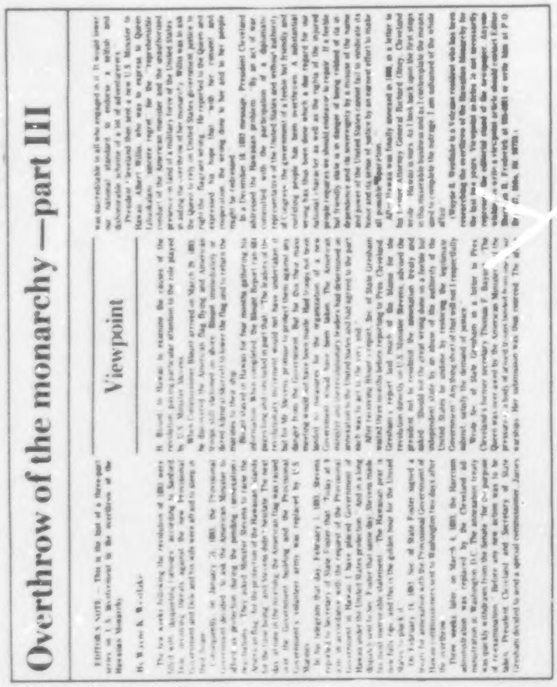
Viewpoint

By Wayne K. Westlake

II

Viewpoint

By Wayne K. Westlake



Hawaii Tribune-Herald Sunday, January 17, 1982

Overthrow of the monarchy—part III

Viewpoint

22

October 4, 1982

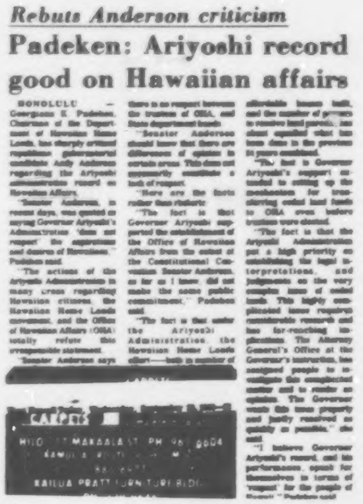
Dear Mrs Kamali'i,

These papers are being forwarded to you on behalf of Aunty Jojo Norton

Good luck in the forthcoming election

Aloha,

[illegible] Whitford



Rebuts Anderson criticism

Padeken: Ariyoshi record good on Hawaiian affairs

KAWAIHAE DEVELOPMENT PLAN

WE HAVE MADE A THOROUGH STUDY OF THE KAWAIHAE DEVELOPMENT PLAN DRAFT AND HAVE FOUND IT INADEQUATE AND AMBIGUOUS. IN PRINCE KUHIO'S ACT UNDER THE HAWAIIAN HOME'S COMMISSION ACT-LANDS HAVE BEEN SET ASIDE FOR THE REHABILITATION OF QUALIFIED NATIVE HAWAIIANS.

THE FIRST QUESTION THAT NEEDS TO BE ANSWERED IS: WHY WAS THIS PARCEL LEASED TO KAHUA RANCH, LTD. TO THE YEAR 2011 AND AT WHAT COST WAS IT LEASED? IN EFFECT IT SHOWS THAT THERE ARE NOT ENOUGH NATIVE HAWAIIANS TO QUALIFY TO OCCUPY THE LAND?

WE READILY ADMIT THAT SOME INDUSTRIAL AREAS AND POTENTIAL RESORT AREAS COULD BE MADE AVAILABLE IN THE DESCRIBED AREA. HOWEVER, WE WOULD LIKE THOSE AREAS CLEARLY DEFINED AS SUCH. ALSO OF PRIME IMPORTANCE IS: WHERE THE AVAILABLE WATER WOULD COME FROM WITHOUT THE SPECULATION OF WELL DRILLING? WE REQUEST A DEFINITE COMMITMENT OF THE TOTAL AMOUNT OF SURFACE WATER CATCHMENT FROM THE WATER AUTHORITY AS TO THE AMOUNT OF WATER THAT BELONGS TO THIS PARCEL.

IN YOUR DEVELOPMENT PLAN, THERE IS NO REFERENCE OF SEWAGE AND WASTE WATER, NOR HOW THEY PLAN TO CONTROL SUCH.

WE WOULD STRONGLY SUGGEST THAT THE AREA YOU HAVE DESIGNATED AS COMMERCIAL AND INDUSTRIAL AREAS BE RE-EVALUATED FOR OCEANSIDE RESIDENCES AND AGRICULTURAL LOTS WHICH WAS THE ORIGINAL INTENT.

KAWAIHAE NOW HAS A DEVELOPED INDUSTRIAL AREA THAT CAN BE USED BY THE AGRICULTURAL FARMERS AS BULK WAREHOUSING, MARKETING AND COOLING SYSTEM TO ASSIST THE HAWAIIAN HOMESTEAD RANCHERS AND FARMERS. WE RECOMMEND 5, 10, 15 and 20 ACRE AGRICULTURAL PLOTS.

KAWAIHAE WAS AT ONE TIME AN IMPORTANT AND STRATEGIC VILLAGE AND WAS SELF-SUSTAINING UP TO MODERN TIMES. IT WOULD SEEM TO US, THAT ALL PLANNING SHOULD BE DIRECTED, NOT ONLY TO THE REHABILITATION OF THE QUALIFIED NATIVE HAWAIIANS, BUT ALSO TO THE REHABILITATION OF THE LAND INTO SELF-PRODUCTION.

WE AGREE THAT WIND ENERGY HAS A VERY HIGH POTENTIAL IN THIS AREA AND SUGGEST THAT YOU PURSUE THIS AVENUE OF RAISING REVENUE FOR THE HAWAIIAN HOMES' COMMISSION.

WE FIND NO FAULT WITH YOUR DESIGNATION OF THE GULCH AS A DRAINAGE AND CONSERVATION AREA.

HISTORICALLY, KAWAIHAE HAS ALWAYS BEEN A SACRED PLACE AND HAS SERVED AS BURIAL GROUNDS FOR THE PEOPLE OF OUR RACE.

ONCE MORE WE MUST INSIST THAT YOU RE-EVALUATE YOUR STUDIES FOR THE REHABILITATION OF THE QUALIFIED NATIVE HAWAIIANS ON AN INDIVIDUAL BASIS IN LIEU OF BEING COMMERCIALLY ORIENTATED.

IN CLOSING, WE WOULD LIKE TO RECOMMEND THAT CONSIDERATION BE GIVEN TO EACH NATIVE HAWAIIAN INDIVIDUALLY SO THAT THEY MAY EXPRESS THEIR PERSONAL THOUGHTS AND FEELINGS FOR THE LAND THAT THEY SHOULD RIGHTFULLY OCCUPY.

WE THE UNDERSIGNED ____________________

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Hale Ola o Ho'opākōlea
Alu Like, Inc.
89-188 Farrington Hwy. rm. 6 Nānākuli, Hawai'i 96792
Telephone (808) 668-2361

January 24, 1983

MEMORANDUM

TO: The Native Hawaiians Study Commission
Department of the Interior Building
18th and C Streets, N.W. - Room 6220
Washington, D.C. 20240

FROM: Andrew White, Principal Investigator
Leonard Mann, Jr., Project Director
Hale Ola o Ho'opākōlea Project

SUBJ: Documentation of Native Hawaiian Mental Health Needs and Services

Introduction:

This Memorandum is in response to our review of the Native Hawaiians Study Commission Draft Report (abbreviated herein as Draft Report) and presents information on the mental health of native Hawaiians. Such information is altogether absent from the Draft Report yet is essential to an understanding of the current social and health status of native Hawaiians in the State at this time. It is pertinent to note that a 1976 DHEW report on alcohol, drug abuse, and mental health in Hawai'i pointed out that the following concerns were relevant to a definition of mental health among which were: land ownership, land use, in-migration, residency requirements, unequal distribution of resources, and the competition, hostilities, and conflicts among ethnic groups.

Specifically this Memorandum documents information on the mental health of native Hawaiians compiled by the Hale Ola Project (a service and research effort supported by NIMH (The National Institute of Mental Health) and ANA (the Administration for Native Americans) and administered by Alu Like, Inc.) and by its research office.

The information presented herein and in accompanying documentation discusses the following points:

1. Hawaiian Mental Health Status
2. Mental Health Services for Hawaiians
3. Culturally Sensitive Service to Hawaiians
4. Hale Ola Sponsored Research

1. Hawaiian Mental Health Status

Native Hawaiians generally present the same variety and pattern of mental health problems as other groups in the State with the one important distinction being that native Hawaiians have that unique set of problems associated with indigenous peoples living under a non-indigenous government. For instance, immigrants who are non-English speakers have a choice, usually, of returning to their respective countries to maintain their linguistic, cultural, and other ties while Hawaiians have no choice but to remain in Hawai'i. Some Hawaiians perceive themselves as citizens of an unfairly defeated nation. Some see themselves as an oppressed people. Can poverty alone explain the fact that at least 47% of the prison population are Hawaiians who comprise roughly 15% of the total population? Do the non-Hawaiians face a similar predicament?

However, the causes of these problems, their perception by Hawaiians, and the appropriate means by which they are resolved differ markedly from non-Hawaiians.

Native Hawaiians are a unique cultural group with longstanding traditional patterns of personal, family and social behavior that still contribute to the identity and security of individuals in their daily lives. Pressures to successfully provide adequate income levels for families and stable jobs produce stresses among Hawaiians and generate role and value conflicts, and present competing incentives to maintain cooperative, Hawaiian collective lifeways or to adopt more contemporary competitive and individualistic lifeways associated with modern American lifeways. A significant part of the problem is perhaps that there are no real alternatives that one can freely turn to aside from the dominant Western lifestyle. A great deal of evidence has been accumulated in particular on how a Hawaiian child who wants to retain the Hawaiian lifestyle is heavily penalized in the state educational system.

Such conflicts and stresses foster mental and emotional disorders among Hawaiian youth and young Hawaiian families in particular. In addition lower levels of formal educational attainment and higher

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levels of unemployment and underemployment contribute to stresses and disorders noted above.

2. Mental Health Services for Hawaiians

Until recently, there was thought to be no need to identify service needs or service target groups on the basis of cultural affiliation or cultural orientation. Yet abundant applied research and service evaluation studies have identified patterns of attitudes, values, perceptions, and behavior unique to individuals of different cultures as directly affecting how individuals communicate with each other, and render and receive assistance. In particular it has been found that Western approaches to therapy and mental health care are not entirely suitable or, appropriate for non-Western, including native Hawaiian, individuals with mental or emotional problems.

On the Wai'anae Coast of O'ahu - 25 miles west of Honolulu - the 15,000 native Hawaiian residents comprise roughly one-half of the area's population, spread out among four semi-rural communities. The Wai'anae Coast has been the site for a mental health clinic administered as part of the State's Community Mental Health Center system. For over ten years, this clinic was noted for its inability to adequately meet the mental health care needs of native Hawaiians on the Coast. This problem was largely due to the insensitivity of clinic staff to the unique manner in which native Hawaiian clients identified, communicated and sought to resolve their problems.

Direct forms of insight therapy in a formal office based setting - using Western/psychiatric terminology on the part of clinicians tends to inhibit Hawaiians in their attempts to resolve personal problems. Despite more than 15 years of community oriented mental health care in Hawai'i, State services have yet to formulate a comprehensive strategy for mental health services delivery to native Hawaiians and other groups in the State based on culturally relevant and effective therapy and care-giving.

At best, this failure means that native Hawaiians are provided mental health care through therapeutic approaches designed for Caucasians and other Western culture groups; Hawaiians thus utilize such services and receive only partial benefits from them. In fact study of mental health services to Hawaiians in the State (see attached report) indicates that native Hawaiians are less often provided with suitable diagnostic, therapeutic, or referral services than other groups.

At worst, the failure to provide culturally sensitive services to native Hawaiians has meant that large numbers of Hawaiians simply

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never use available sources of care and are forced to suffer through long periods of stress or disorder or ultimately harm themselves, their families, or others.

3. Culturally Sensitive Service to Hawaiians

Hale Ola o Ho'opākōlea is a recent effort to test and demonstrate the effectiveness of an alternative and culturally sensitive approach to meeting the mental health care needs of native Hawaiians. The 3-year project is located in the Wai'anae Coast and is a first-time cooperative effort on the part of NIMH and ANA who jointly provide federal funding.

The Hale Ola Project is a unique effort in several respects. It represents the first time that a carefully planned service center has been established to utilize a culturally sensitive approach to service delivery targeted for native Hawaiians with mental, emotional and related problems. It is a center that employs qualified service staff drawn from the Wai'anae Coast communities to provide counseling, referral, follow-up, training, and information gathering and providing activities in a manner appropriate to native Hawaiians. Informal approaches to caregiving assistance are emphasized and flexibility is maintained with regards to setting time, and frequency with which care is provided. Hale Ola also represents a unique effort to identify, recruit and coordinate the variety of informal care-givers and natural healers who are present in every community and who offer wide range of services generally uncatalogued and unacknowledged by professional service agencies. Hale Ola is working to link formal and informal sources of assistance in order to create a true network of care for individuals with various kinds of problems and service needs. Finally, Hale Ola is unique in its organizational character; it was initiated by Wai'anae Coast community groups and it continues to be directly guided by and responsible to a community-based administrative committee consisting of residents and service agency staff.

Hale Ola o Ho'opākōlea (which in Hawaiian means a place for setting things right, a place of healing) is known as a cultural resource and healing center, and provides native Hawaiians on the Wai'anae Coast with an alternative source of care for personal and emotional problems. Informal care and counseling provided directly by our staff, comprehensive links to a network of formal and informal care sources, and direct community-based supervision and administration together have created a unique character for this project's attempt to assist native Hawaiians in a culturally sensitive way. Now entering its third and final year of project operation under federal funding, Hale Ola is seeking to have its unique contribution to mental health care recongnized by appropriate federal and State agencies so that such service may be continued and expanded and so that more native Hawaiians in other communities can benefit from the provision of mental health and counseling services in a manner that recognizes and works with the cultural uniqueness of native Hawaiians, the cultural sources of the problems they face, and the cultural approaches needed to resolve these problems.

4. Hale Ola Sponsored Research

The Hale Ola Project has been responsible not only for introducing and demonstrating a culturally sensitive approach to care-giving but also for sponsoring carefully designed cultural research efforts that seek to elicit specific kinds of information directly applicable to culturally sensitive service delivery. In particular Hale Ola has formulated a community research program which consists of three main research efforts:

(1) a community survey of native Hawaiian perception and communication styles with regard to personal problems;

(2) a survey of informal caregivers and natural healers on the Wai'anae Coast; and

(3) a survey of the knowledge, attitudes and practices of formal agency-based service providers on the Coast with regard to their sensitivity to native Hawaiian service needs.

At the present time, the first research effort has been completed and documentation of this effort is now being produced (see attached survey instrument and three reports). The survey was based on an interview schedule conducted by Hale Ola staff trained in interview methods. Over 650 residents were selected at random to form a representative sample of the Coast's Hawaiian and non-Hawaiian populations. Survey findings indicate that native Hawaiians have lived longer on the Coast, have less formal educational attainment, and have lower-skilled jobs than non-Hawaiians. Hawaiians have greater knowledge of informal caregivers and community assistance than do non-Hawaiians. Hawaiians tend to feel their current living situation is not satisfying and consider life to be basically stressful. Several themes that have direct bearing on one's mental health emerged from the open-ended questions on the survey. One is the fear that the traditional, rural Hawaiian lifestyle is being endangered by encroaching urbanization. Another is the growing awareness of the violations of basic justice during the 1893 overthrow of the Hawaiian Nation. Another is that poverty may be caused partly by cultural differences such as cultural preferences for certain jobs that may not be financially rewarding.

The second research effort is now almost completed. It is aimed at identifying and interviewing the majority of informal caregivers

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on the Wai'anae Coast in order to learn what kinds of assistance are provided and what kinds of problems and people are treated in informal settings. Through this survey assessment, Hale Ola also is able to discuss with informal caregivers and healers opportunities for mutual cooperation in service delivery and referral.

The third research effort is presently being initiated and involves a pretest - training - posttest evaluation of professional and formal caregivers working in established mental health and social service agencies on the Wai'anae Coast. This evaluation seeks to gauge the present sensitivity of professionals to native Hawaiians and their culture as applied in therapeutic settings; to provide training sessions and workshops to these professionals in order to enhance their sensitivity; and to re-assess their level of sensitivity at a later date in order to determine the extent to which culturally appropriate service delivery has been improved through training programs.

Overall, the research efforts at Hale Ola are closely integrated with the center's service program, with emphasis placed on direct application of research results to service planning, design, and delivery, target group selection, and multi-service linkage and coordination efforts.

HALE OLA O HO'OPĀKŌLEA

A Cultural Healing and Resource Center
for Native Hawaiians on the Wai'anae Coast

Findings from the December 1981 Survey
of Wai'anae Coast Residents

A REPORT TO INTERVIEW PARTICIPANTS

November 1982

INTRODUCTION

Hale Ola o Ho'opākōlea is a new cultural service center serving native Hawaiians on the Wai'anae Coast with local, Hawaiian counseling and resource staff. Hale Ola was created in response to community demand for more culturally sensitive approaches to problems of a personal or emotional nature faced by native Hawaiians from time to time.

As part of Hale Ola's initial efforts to design appropriate services for native Hawaiians on the Coast, the staff undertook a project to interview several hundred residents, selected at random, to find out how they felt about problems and the means for dealing with them. Beginning in December of last year, Hale Ola contacted and interviewed over 650 residents on the Coast.

This Summary Report has been expressly written for you, one of the participants in our interview effort. It contains highlights of findings that came out of our study of the entire set of responses to our interviews. As a participant you were valuable in expressing your opinions and point of view about problems on the Coast and helping us to better serve native Hawaiians on the Coast. Even if you are not native Hawaiian you helped us identify what is unique to native Hawaiian problems and problem solving and what is shared with non-Hawaiians. This report is one small way we can express our thanks to you for your help and cooperation.

This Report is organized to allow you to easily scan the information contained and to pick out the results that may be of interest to you. If you are interested in more detailed findings from the interview effort, please feel free to contact the research staff of Hale Ola to request more information at_668-2361 (you need not identify yourself). The next page identifies the remaining Contents of this Report of findings to you.

CONTENTS OF THE REPORT

This Report prepared by Hale Ola o Ho'opākōlea will briefly examine five different areas found to be of interest. The first area is that of the general characteristics of the individuals that we interviewed. The second area is that of attitudes and values concerning life satisfaction, stress, and problem solving. The third area concerns what problems presented in a list were judged to be most critical on the Wai'anae Coast. The fourth area is information we gathered about people's knowledge of healers and informal care-givers on the Coast. And the fifth area is information gathered from examining the narrative responses to a series of open-ended questions which allowed interview respondents to speak in their own words. All of this information will be used by Hale Ola staff to help them design better, more culturally relevant services for people on the Wai'anae Coast.

HAWAIIANS AND NON-HAWAIIANS

In conducting this questionnaire effort, Hale Ola was basically interested in learning of the difference between native Hawaiians and non-Hawaiians in the way they viewed problems, talked about them, and tried to solve them. We thus had to determine who was Hawaiian and who was non-Hawaiian. We asked interview respondents about their parents' ethnicity, their own ethnic identity, and their length of residence in Hawai'i and on the Wai'anae Coast. Hale Ola used this information to help determine what individuals are Hawaiian in the way they think and behave.

In all we found 637 respondents could be grouped, 367 of them as Hawaiian, and 270 of them as non-Hawaiian. Thus, our sample roughly included 58% Hawaiian and 42% non-Hawaiian respondents. These proportions closely follow those to be found among the Wai'anae Coast population as a whole.

Once we had these two groupings of our questionnaire respondents, we were able to compare how individuals in each group answered various questions, and whether or not those answers were different or the same for the Hawaiian and non-Hawaiian groups.

FINDINGS FROM THE INTERVIEW EFFORT

We now present a summary of the findings which we gathered from examining the responses made by the people we interviewed. Below, we simply see what characteristics Hawaiians have when viewed alongside non-Hawaiians in the sample. (Note that because we made sure that the people we chose to interview were selected at random from the Wai'anae Coast population, we are fairly confident that our sample findings hold for the Hawaiian and non-Hawaiian groups in the Coast population as a whole.)

A) Background Characteristics:

- **AGE:** Hawaiians tend to be younger than non-Hawaiians.

- **RESIDENCE:** Hawaiians generally have lived longer in Hawai'i and on the Wai'anae Coast than have non-Hawaiians.

- **EDUCATION:** Hawaiians tend to have had less formal education: more of them have not graduated from High School.

- **EMPLOYMENT:** Hawaiians and non-Hawaiians appear to have the same proportions of employed and unemployed. Somewhat more Hawaiians have part-time jobs, however.

- **OCCUPATION:** Hawaiians tend to have skilled and unskilled labor types of jobs, while more non-Hawaiians have managerial and professional types of jobs.

B) Attitudes and Values:

- **LIFE SATISFACTION:** More Hawaiians than non-Hawaiians tended to feel that their current living situation was not satisfying. In both groups the majority felt satisfied, however.

- **HAWAIIAN LIFESTYLE:** Somewhat more Hawaiians than non-Hawaiians felt that Hawaiians were dissatisfied with their lifestyle at present.

- **STRESS:** Both Hawaiians and non-Hawaiians felt to a large extent that life is basically stressful. Only one-quarter of each group disagreed with this view.

- **PROBLEM SOLVING:** Both Hawaiians and non-Hawaiians believe that the best way to solve a personal problem is to carefully think it through and find the best solution, rather than give in or fight it.

C) Problems on the Wai'anae Coast

- **HAWAIIAN PROBLEMS:** When asked if Hawaiians have the same kind of problems as non-Hawaiians on the Wai'anae Coast, half of each group believes that the problems are the same. Of the remainder, more Hawaiians than non-Hawaiians believe that the problems are different. (More non-Hawaiians than Hawaiians state that they don't know.)

- **PROBLEMS RANKED:** All respondents were asked to examine a list of commonly cited problems and indicate which ones they considered big problems or not important. Problems were then ranked according to how many respondents felt problems to be big ones. The majority of Hawaiians indicated that (in order of importance) juvenile delinquency, teenage pregnancies, hard drugs and cocaine usage, poor public education, child abuse, lack of parental discipline, and young runaways were significant problems on the Coast. Non-Hawaiians ranked these problems in the same order, but with somewhat fewer respondents agreeing that they were significant.

D) Healers and Care-Givers on the Wai'anae Coast

Part of our questionnaire was devoted to finding out how people obtain assistance from other people in their community. We wanted to know who provides help and what kinds of care-givers people seek help from. Hale Ola hopes to make it easier for people who have particular kinds of problems to find a particular healer or care-giver on the Wai'anae Coast.

- **KINDS OF HEALERS:** Generally, Hawaiians have greater knowledge of a variety of healers and care-givers on the Coast, than do non-Hawaiians. More than half of Hawaiians know of spiritual and community care-givers.

- **NUMBER KNOWN:** Nearly two-thirds of Hawaiians on the Coast know of 1 or more caregivers that can provide assistance with personal problems. Less than half of non-Hawaiians on the Coast, by contrast, know of 1 or more care-givers.

FINDINGS FROM OPEN-ENDED QUESTIONS

The design of Hale Ola's Wai'anae Coast survey included two different kinds of questions. One set of questions was formed in terms of multiple choice answers which respondents were asked to select from. This form helped us summarize information quickly. The other set of questions were open-ended in nature and allowed respondents to use their own words and express themselves in their own unique way. Carl Young, Hale Ola's Research Assistant, has examined the kinds of answers that were obtained. A summary of his larger report is presented below.

The open-ended questions in our questionnaire dealt primarily with the positive aspects of the Wai'anae Coast as well as how different ethnic groups perceived their own and other groups' problems. In our first assessment of the answers to these questions, a sample of 50 interviews was used, the results of which are reported here.

With regard to the advantages of living on the Coast, a significant number of comments touched on the abundant opportunities available for

fishing, farming, and activities related to Hawaiian culture. One question asked, "What do you consider to be the special positive qualities of an ideal Hawaiian?" Several responses indicated "somebody that can survive off the land:, or someone with "sensitivity to nature". Some people interviewed tended to admire farmers and fishermen as having special Hawaiian qualities.

We also asked individuals to assess the problems faced by the different ethnic groups on the Wai'anae Coast. For native Hawaiians, jobs and education were considered of great concern, and responses also focused on historical events from the Great Mahele (land division/alienation) of 1848 and the overthrow of the Hawaiian nation in 1893. Caucasians were considered to be well off in terms of education and income but to feel themselves superior and to impose their way of life on others. Filipinos were considered in general to have fewer problems, but some mentioned typical problems associated with new immigrants. Samoans were similarly considered to have few problems with housing, drugs, or their youth, possibly due to a strong extended family system. With regard to Uchinanchu/Naichi (Okinawan/Japanese), it was generally felt that problems for them stem from their economic dominance and their clannishness.

Finally, we asked interview participants how they felt about our survey, once it was completed. The range of answers included, "Good, get at the root of the problem"; "Educational...the community should be informed"; and "Do something about it!". Some however wanted to know who would review the completed questionnaires, and a few felt that the interview effort was "senseless". We at Hale Ola thank you for being frank and honest with us and for sharing your feelings and yourtime with us.

CONCLUSION

We at Hale Ola o Ho'opakolea are very pleased with the results of our questionnaire effort. We have learned from these findings that Hawaiians on the Coast are different in significant ways. They are more economically disadvantaged and are less satisfied with their current living situation. We have learned that Hawaiians identify a variety of problems on the Coast as being significant, and that they want to find ways of solving these problems. We have learned that Hawaiians have more knowledge of Healing resources on the Coast and are more willing to use them.

We at Hale Ola hope that we can help Hawaiians on the Wai'anae Coast in solving personal as well as community problems. We are concentrating on making it more easy for Hawaiians to find and get help from local caregivers and counselors.

We have also learned how helpful you and others like you have been in providing information to us to help make the Wai'anae Coast a better place to live. MAHALO.

****

THE HAWAIIAN NEWS

A LOCAL STYLE NEWSPAPER

For Hawaiians and Hawaiians in Heart

[redacted] 331-A KAMANI ST Honolulu Hawaii 96813

595-4819

Phone (808) [redacted]

April 27, 1983

Native Hawaiian Study Commission
U.S.Dept. of Interior Rm 6220
18th and C St.N.W.
Washington, D.C. 20240

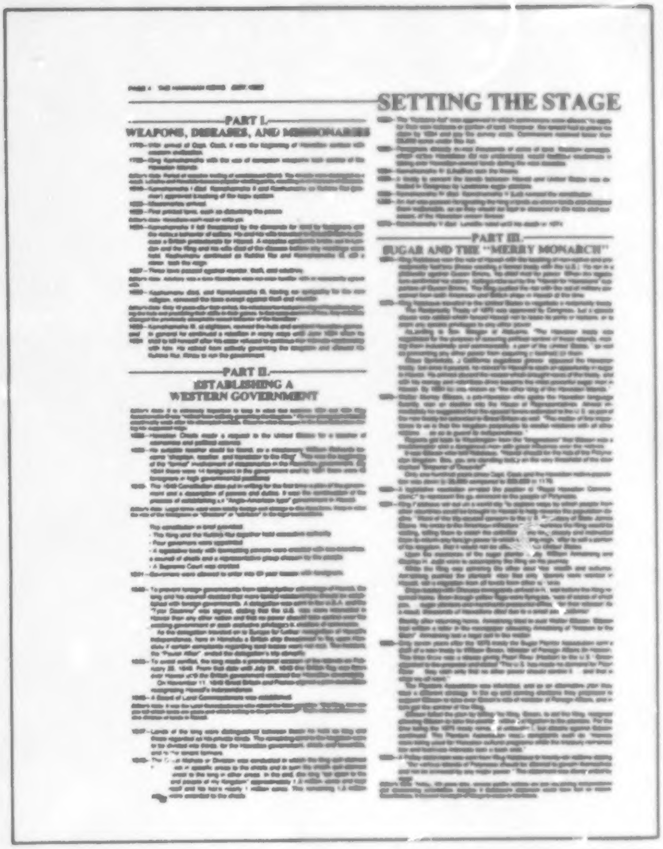
Dear Sirs:

Earlier I had submitted copies of the October 1982 and the February 1983 issues of The Hawaiian News to your office in Honolulu. I noticed while in D.C. that your office did not receive them. I am here for sending additional copies to you at this time to be considered as commentary in your report.

Aloha No,

Toni Auld Yardley

Toni Auld Yardley
Editor, The Hawaiian News

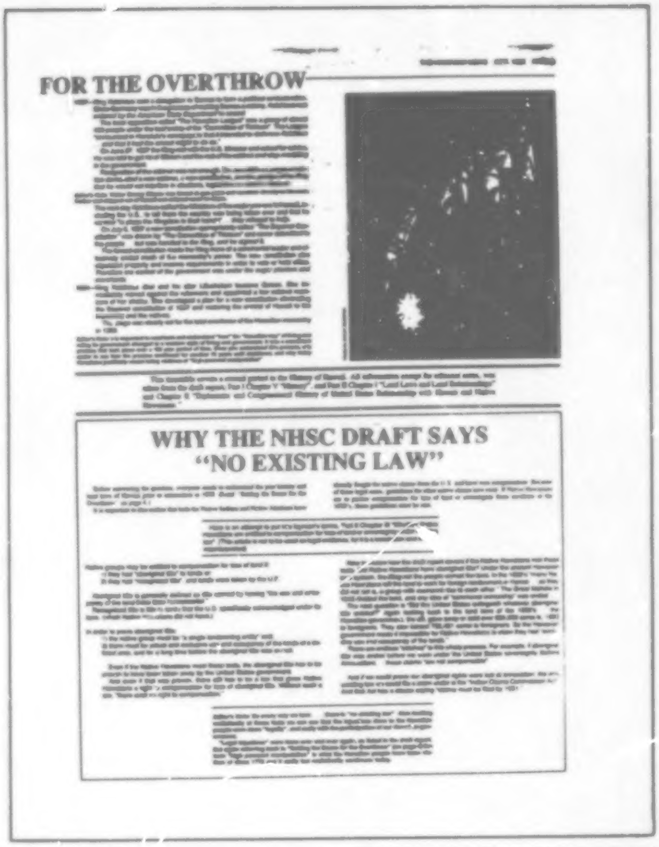


SETTING THE STAGE

PART I.
WEAPONS, DISEASES, AND MISSIONARIES

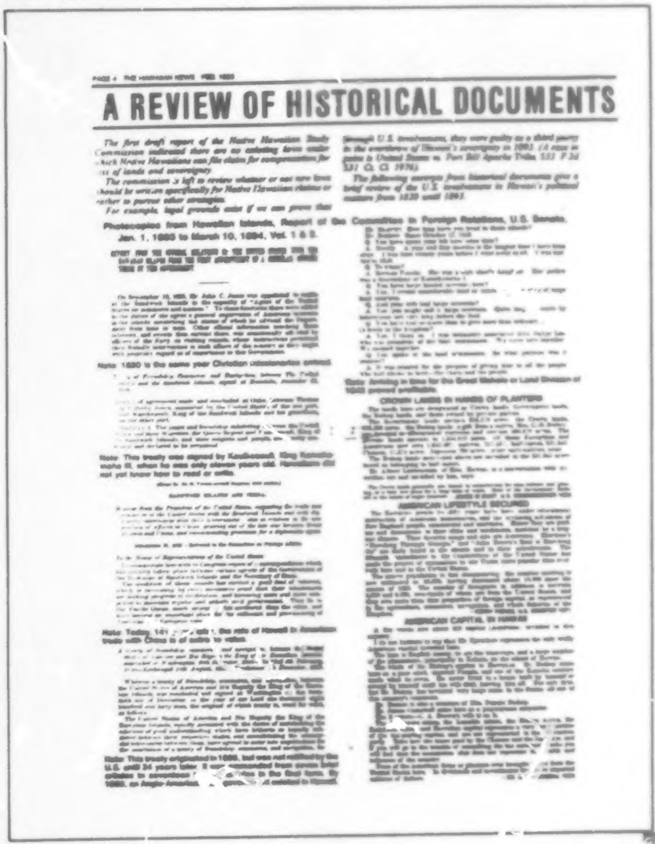
PART II.
ESTABLISHING A WESTERN GOVERNMENT

PART III.
SUGAR AND THE "MERRY MONARCH"



FOR THE OVERTHROW

WHY THE NHSC DRAFT SAYS "NO EXISTING LAW"



A REVIEW OF HISTORICAL DOCUMENTS

The first draft report of the Native Hawaiian Study Commission indicated there are no existing laws under which Native Hawaiians can file claims for compensation for loss of lands and sovereignty.

The commission is left to review whether or not new laws should be written specifically for Native Hawaiian claims or rather to pursue other strategies.

For example, legal grounds exist if we can prove that through U.S. involvement, they were guilty as a third party in the overthrow of Hawaii's sovereignty in 1893. (A case in point is United States vs. Fort Sill Apache Tribe, 533 F.2d 531 Ct. Cl. 1976).

The following excerpts from historical documents give a brief review of the U.S. involvement in Hawaii's political matters from 1820 until 1893.

Photocopies from Hawaiian Islands, Report of the Committee in Foreign Relations, U.S. Senate, Jan. 1, 1893 to March 10, 1894, Vol. 1 & 2.

Note: 1820 is the same year Christian missionaries arrived.

Note: This treaty was signed by Kauikeaouli, King Kamehameha III, when he was only eleven years old. Hawaiians did not yet know how to read or write.

Note: Arriving in time for the Great Mahele or Land Division of 1848 proved profitable.

CROWN LANDS IN HANDS OF PLANTERS

AMERICAN LIFESTYLE SECURED

AMERICAN CAPITAL IN HAWAII

Note: This treaty originated in 1826, but was not ratified by the U.S. until 24 years later.

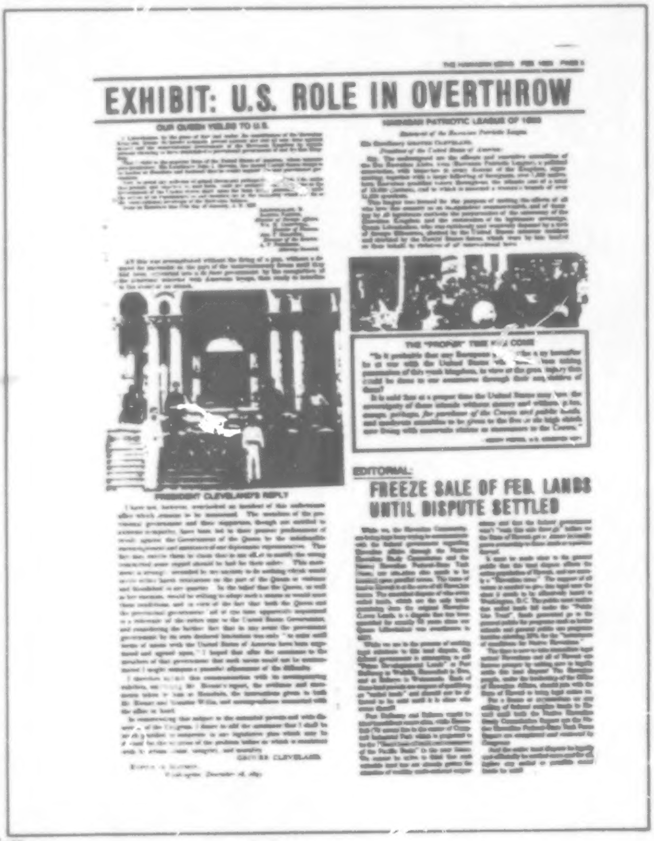


EXHIBIT: U.S. ROLE IN OVERTHROW

OUR QUEEN YIELDS TO U.S.

HAWAIIAN PATRIOTIC LEAGUE OF 1893

PRESIDENT CLEVELAND'S REPLY

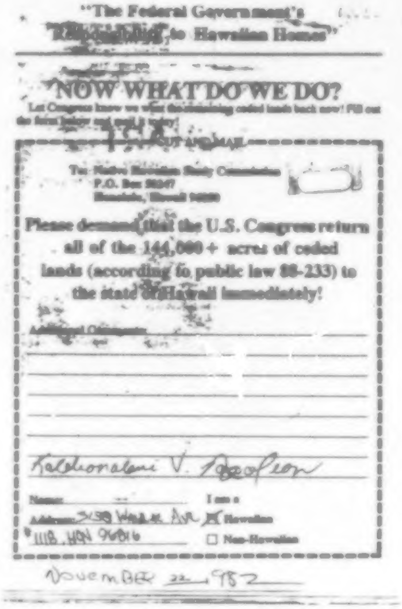
GROVER CLEVELAND

THE "PROPER" TIME HAS COME

EDITORIAL:

FREEZE SALE OF FED. LANDS UNTIL DISPUTE SETTLED

BEST COPY



"The Federal Government's
Responsibility to Hawaiian Homes"

NOW WHAT DO WE DO?

Let Congress know we want the remaining ceded lands back now! Fill out the form below and mail it today!

CUT AND MAIL

To: Native Hawaiian Study Commission
P.O. Box 50247
Honolulu, Hawaii 96850

Please demand that the U.S. Congress return all of the 144,000+ acres of ceded lands (according to public law 88-233) to the state of Hawaii immediately!

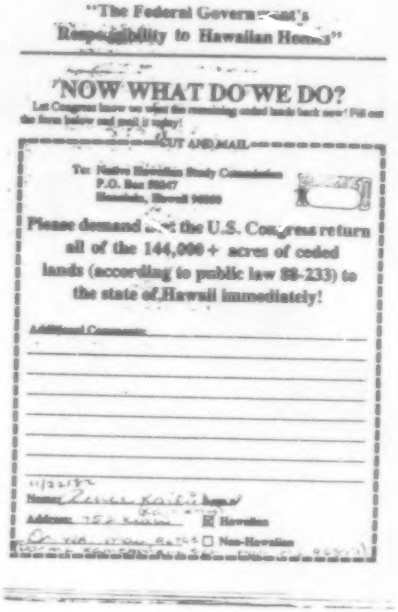
Additional Comments:

Kalehonalani V. Napoleon

Name:
Address: 3138 Waialae Ave
11B, HON 96816

I am a
☒ Hawaiian
☐ Non-Hawaiian

November 22, 1982



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Honolulu, Hawaii 96850

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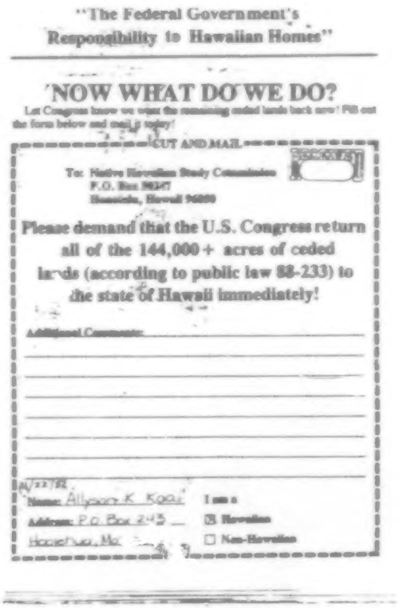
Additional Comments:

11/22/82
Name: Renee Kaiii [illegible]
Address: 752 [illegible]
[illegible]

I am a
☒ Hawaiian
☐ Non-Hawaiian



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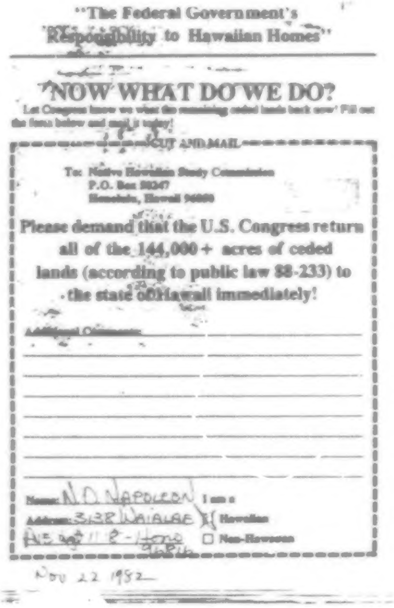
Additional Comments:

11/22/82
Name: Allyson K. Kaai
Address: P.O. Box 243
Hoolehua, Mol [illegible]

I am a
☒ Hawaiian
☐ Non-Hawaiian



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Honolulu, Hawaii 96850

Please demand that the U.S. Congress return all of the 144,000+ acres of ceded lands (according to public law 88-233) to the state of Hawaii immediately!

Additional Comments:

Name: N.D. NAPOLEON
Address: 3138 WAIALAE
AVE Apt 11 B - Hono 96816

I am a
☒ Hawaiian
☐ Non-Hawaiian

NOV 22 1982

BEST COPY

"The Federal Government's Responsibility to Hawaiian Homes"

NOW WHAT DO WE DO?

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Honolulu, Hawaii 96850

Please demand that the U.S. Congress return all of the 144,000 + acres of ceded lands (according to public law 88-233) to the state of Hawaii immediately!

Additional Comments:

Name: [illegible]
Address: [illegible]
[illegible] 96815

I am a
☑ Hawaiian
☐ Non-Hawaiian

[illegible] 1982

[illegible] 1982

"The Federal Government's Responsibility to Hawaiian Homes"

NOW WHAT DO WE DO?

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Honolulu, Hawaii 96850

Please demand that the U.S. Congress return all of the 144,000 + acres of ceded lands (according to public law 88-233) to the state of Hawaii immediately!

Additional Comments:

Name: [illegible]
Address: [illegible]
[illegible]

I am a
☑ Hawaiian
☐ Non-Hawaiian

NOW WHAT DO WE DO?

Let Congress know we want the remaining ceded lands back now! Fill out the form below and mail it today!

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To: Native Hawaiian Study Commission
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Honolulu, Hawaii 96850

Please demand that the U.S. Congress return all of the 144,000 + acres of ceded lands (according to public law 88-233) to the state of Hawaii immediately!

Additional Comments:

Name: Carl Brown
Address: 2154 A[illegible]
[illegible] 96817

I am a
☑ Hawaiian
☐ Non-Hawaiian

[illegible] 22 82

NOW WHAT DO WE DO?

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Honolulu, Hawaii 96850

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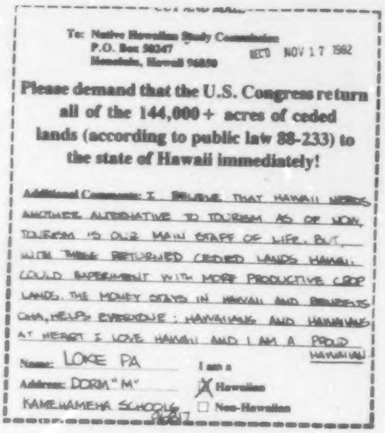
Additional Comments: I am from the mainland, but living here for 2 years. I love the Hawaiian Islands & the people & would like to see the lands be returned to the beautiful island people. Aloha.

Name: Joy Sparling
Address: 2840 Varsity Circle #1
Honolulu, Oahu.

I am a
☐ Hawaiian
☒ Non-Hawaiian



CUT AND MAIL

To: Native Hawaiian Study Commission
P.O. Box 50247
Honolulu, Hawaii 96850

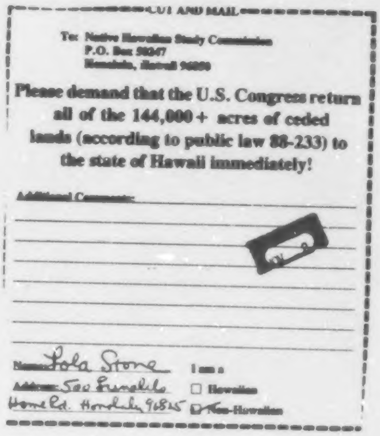
REC'D NOV 17 1982

Please demand that the U.S. Congress return all of the 144,000+ acres of ceded lands (according to public law 88-233) to the state of Hawaii immediately!

Additional Comments: I BELIEVE THAT HAWAII NEEDS ANOTHER ALTERNATIVE TO TOURISM AS OF NOW, TOURISM IS OUR MAIN STAFF OF LIFE. BUT, WITH THESE RETURNED CEDED LANDS HAWAII COULD EXPERIMENT WITH MORE PRODUCTIVE CROP LANDS. THE MONEY STAYS IN HAWAII AND BENEFITS OHA, HELPS EVERYONE: HAWAIIANS AND HAWAIIANS AT HEART. I LOVE HAWAII AND I AM A PROUD HAWAIIAN

Name: LOKE PA
Address: DORM "M"
KAMEHAMEHA SCHOOLS 96817

I am a
☒ Hawaiian
☐ Non-Hawaiian



CUT AND MAIL

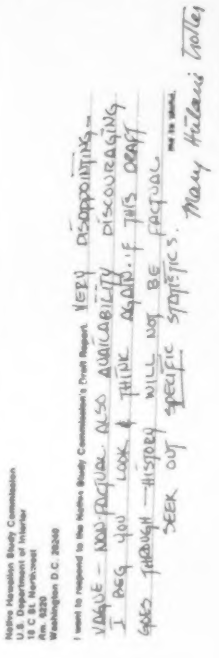
To: Native Hawaiian Study Commission
P.O. Box 50247
Honolulu, Hawaii 96850

Please demand that the U.S. Congress return all of the 144,000+ acres of ceded lands (according to public law 88-233) to the state of Hawaii immediately!

Additional Comments:

Name: Lola Stone
Address: 580 Lunalilo Home Rd. Honolulu 96825

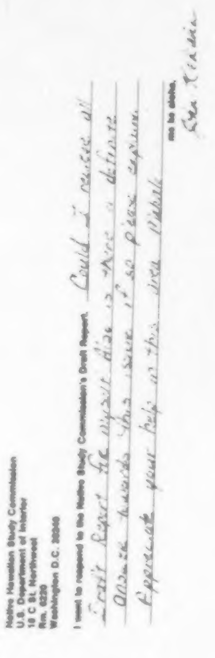
I am a
☐ Hawaiian
☑ Non-Hawaiian



Native Hawaiian Study Commission
U.S. Department of Interior
18 C St. Northwest
Rm. 6220
Washington D.C. 20240

I want to respond to the Native Study Commission's Draft Report. VERY DISAPPOINTING — VAGUE — NON-FACTUAL. ALSO AVAILABILITY DISCOURAGING. I BEG YOU LOOK & THINK AGAIN. IF THIS DRAFT GOES THROUGH — HISTORY WILL NOT BE FACTUAL. SEEK OUT SPECIFIC STATISTICS.

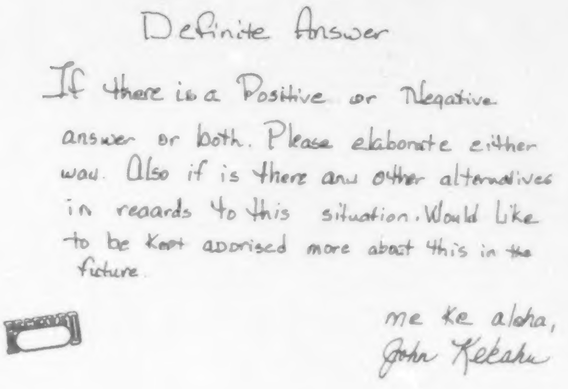
me ke aloha,
Mary Hulani Trotter



Native Hawaiian Study Commission
U.S. Department of Interior
18 C St. Northwest
Rm. 6220
Washington D.C. 20240

I want to respond to the Native Study Commission's Draft Report. Could I receive all Draft Report for myself. Also is there a definite answer towards this issue if so please explain. Appreciate your help in this area Mahalo

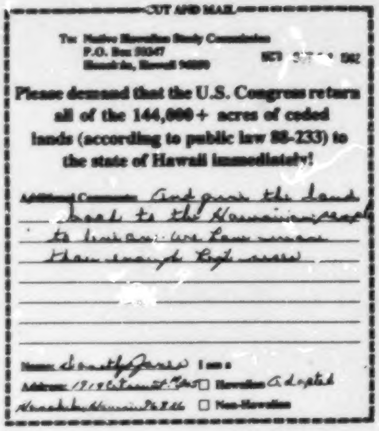
me ke aloha,



Definite Answer

If there is a Positive or Negative answer or both. Please elaborate either way. Also if is there any other alternatives in regards to this situation. Would like to be kept apprised more about this in the future.

me ke aloha,
John Kekahu



CUT AND MAIL

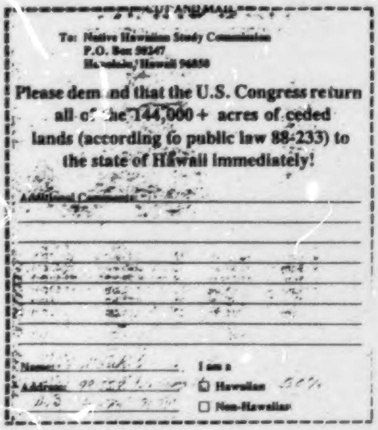
To: Native Hawaiian Study Commission
P.O. Box 50247
Honolulu, Hawaii 96850

NOV [illegible] 1982

Please demand that the U.S. Congress return all of the 144,000 + acres of ceded lands (according to public law 88-233) to the state of Hawaii immediately!

Additional Comments: And give the land back to the Hawaiian people to live on. We have more than enough [illegible]

Name: Dorothy Jones I am a
Address: 1919 [illegible] St. [illegible] ☐ Hawaiian Adopted
Honolulu, Hawaii 96816 ☐ Non-Hawaiian



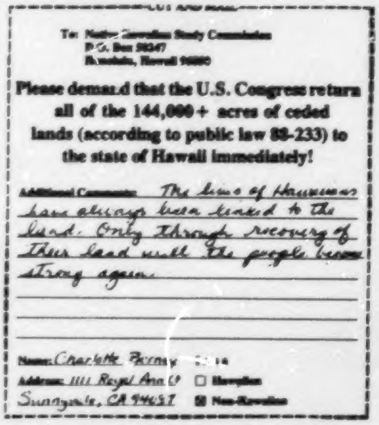
CUT AND MAIL

To: Native Hawaiian Study Commission
P.O. Box 50247
Honolulu, Hawaii 96850

Please demand that the U.S. Congress return all of the 144,000 + acres of ceded lands (according to public law 88-233) to the state of Hawaii immediately!

Additional Comments: [illegible]

Name: [illegible] I am a
Address: [illegible] ☒ Hawaiian 50%
[illegible] ☐ Non-Hawaiian



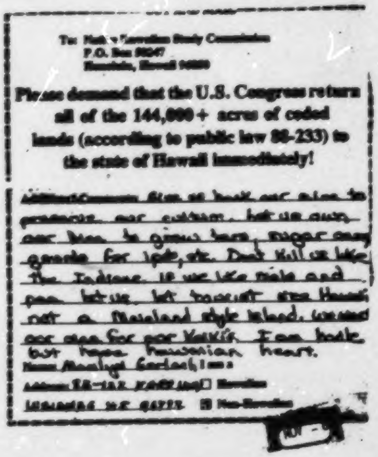
CUT AND MAIL

To: Native Hawaiian Study Commission
P.O. Box 50247
Honolulu, Hawaii 96850

Please demand that the U.S. Congress return all of the 144,000 + acres of ceded lands (according to public law 88-233) to the state of Hawaii immediately!

Additional Comments: The lives of Hawaiians have always been linked to the land. Only through recovery of their land will the people become strong again.

Name: Charlotte Barney I am a
Address: 1111 Royal Ann Ct ☐ Hawaiian
Sunnyvale, CA 94087 ☒ Non-Hawaiian



To: Native Hawaiian Study Commission
P.O. Box 50247
Honolulu, Hawaii 96850

Please demand that the U.S. Congress return all of the 144,000 + acres of ceded lands (according to public law 88-233) to the state of Hawaii immediately!

Additional Comments: Give us back our place to preserve our culture. Let us own our land to grow taro, sugar cane, guavas for lei's, etc. Don't kill us like the Indians. If we like poi and poa, let us. Let tourist see Hawaii not a Mainland style island. We need our [illegible] for our keiki. I am haole but have Hawaiian heart.

Name: Marilyn Gerlach I am a
Address: 58-132 [illegible] ☐ Hawaiian
[illegible] HI 96712 ☒ Non-Hawaiian

CUT AND MAIL

To: Native Hawaiian Study Commission
P.O. Box 50247
Honolulu, Hawaii 96850

Please demand that the U.S. Congress return all of the 144,000+ acres of ceded lands (according to public law 88-233) to the state of Hawaii immediately!

Additional Comments: This is land that belongs to the state of Hawaii, and should of course be [illegible] [illegible] [illegible] necessary [illegible] people that rightfully own land [illegible] and [illegible] for what is theirs [illegible] cause [illegible] problems [illegible] the correct thing in the beginning.

[redacted]

Name: LILLIAN [illegible]
Address: 107 FERRY LANE
[illegible]INGTON, R.I. 02[illegible]

I am a
☐ Hawaiian
☑ Non-Hawaiian

CUT AND MAIL

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P.O. Box 50247
Honolulu, Hawaii 96850

Please demand that the U.S. Congress return all of the 144,000+ acres of ceded lands (according to public law 88-233) to the state of Hawaii immediately!

Additional Comments:
Please provide health services for our people. Dental & Medical needs are great, and unaffordable in the present state.

[redacted]

Name: BRENDA LEE
Address: 73 ALOALO ST
HILO, HAWAII

I am a
● Hawaiian
☐ Non-Hawaiian

Let Congress know we want the remaining ceded lands back now! Fill out the form below and mail it today!

CUT AND MAIL

To: Native Hawaiian Study Commission
P.O. Box 50247
Honolulu, Hawaii 96850

*YES

Please demand that the U.S. Congress return all of the 144,000+ acres of ceded lands (according to public law 88-233) to the state of Hawaii immediately!

Additional Comments:
"UA MAU KE EA O KA AINA
I KA PONO"
"THE LIFE OF THE LAND IS
PRESERVED IN RIGHTEOUSNESS."

ALOHA,

[redacted]

Name: DAVID FOSS
Address: 1346 KALANIIKI
HONOLULU, HAWAII
96821

I am a
☐ Hawaiian
☑ Non-Hawaiian